

***FREEDOM FROM FEAR:
Promoting Human Security for
The Return and Reintegration of Displaced Persons in Sudan***

A Protection Assessment by
The International Rescue Committee

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A. EXECUTIVE SUMMARY

1. The protection situation in the Sudan, stemming from the longest running civil war in Africa, is profoundly complex and pervasive. While the cessation of hostilities in 2002 has brought respite from the protracted war between the North and the South, brutal conflict rages in the West, and tensions grow in the East. Although the root causes are largely the same - competition over resources, lack of power-sharing and racial inequity - each region is passing through a different phase in its quest for human security. The nature of the protection problems and the dynamics impacting their resolution are not necessarily identical and, thus, each area merits its own protection assessment.

2. Given the ongoing preparations for the return and reintegration of millions of displaced in the North-South war, and in view of the explicit request by the humanitarian community and donors to map out the protection challenges connected therewith, this report was consigned to assess human security and protection with respect to the North-South scenario. It's specific dynamics are represented by a political process, cessation of hostilities and an anticipated peace-agreement.

3. Despite the delays at the peace-talks in Naivasha, the negotiations have established a framework for a political process and contributed to improved security on the ground. While many displaced people are filled with distrust and suspicion, they still maintain hope that the anticipated peace agreement between the Government of the Sudan (GoS) and the Sudan Peoples' Liberation Movement/Army (SPLM/A) will contribute to conditions conducive to return. It is this sense of hope that has triggered spontaneous returns to parts of Southern Sudan, and a new resolve by humanitarian and development actors to respond to current return movements, and hence prepare for large-scale, organized return and reintegration.

4. A number of actors involved in the South-North operation have sought to meet the existing protection needs and gaps. However, the militarized environment and restrictive policies regarding freedom of movement (FOM) has not just stifled, but has prevented any substantive protection activities or strategy in the *location of displacement* in Sudan. As a result, numerous protection problems common to many displaced persons have been left unattended.

5. A better understanding not only of the current conditions of displacement, but also of the political objectives and tactics employed to herd fleeing populations, is necessary in order to determine the threats that may present themselves during the actual *return phase*.

6. The biggest threat to *reintegration* is the lack of human security, i.e. freedom from fear in claiming and exercising physical, legal and material rights. The immediate threats are posed by military rule and armed groups (whether regulars, militia or civilians), which contribute to a web of intertwined protection problems. While these issues have been

clustered in the report for the purpose of structure, they are all interrelated and warrant a holistic and coordinated approach.

7. International and national stakeholders alike agree that the establishment of rule of law is the ultimate remedy. This will require a combination of community-based approaches and capacity building of the judiciary and law-enforcement, which in turn must be reinforced by good governance and political action at the national and international level. The absence of effective action on any of these levels could undermine the entire process.

KEY RECOMMENDATIONS:

- Substantially increase the presence of international staff in the field and in IDP camps to strengthen protection monitoring, reporting and intervention
- Review the options for providing transport during the phase of *organized* return
- Support the capacity of local stakeholders to respond to the immediate needs of returnees or new displacements
- Gear protection activities toward the establishment of rule of law
- Strengthen training in practical protection and implement alternative approaches to conventional human rights training
- Increase protection, conflict resolution and peace-building programs in the North, including in garrison towns in the South
- Renew advocacy on relevant international instruments and principles for both national and international stakeholders¹
- Establish a coordinated approach to protection that recognizes the comparative advantage of each actor, and promotes a synergy between humanitarian, developmental and political action

¹ International humanitarian, human rights and refugee law, and the IDP Guiding Principles.

B. INTRODUCTION

8. Over the past years, globally, a number of humanitarian and development agencies have adopted a protection dimension to their activities, the IRC being no exception. In 2000, the IRC established a Protection Unit at its New York-based headquarters. Today, the Unit supports protection-driven and stand-alone protection activities in 15 of its country programs.

9. Given the protracted nature of the conflict in Sudan and stark protection needs, the initiative to this study came out of a visit by the IRC Protection Unit to Sudan in 2003. Initially, this project was intended to lay the ground for a unified IRC protection strategy for its programs in North and South Sudan. However, since to date no international organization or governing authority has undertaken a comprehensive protection-related review, the donors requested that the assessment be developed for the wider international community.

10. This study was conducted over a period of three months by an international consultant. Owing to time, logistics, and the size of Sudan, field-visits were concentrated to areas with an IRC presence. These were:

- Khartoum (including IDP camps and squatter areas)
- Nairobi
- Malual Kon (Bahr-el-Ghazal)
- Warawar (Bahr-el-Ghazal)
- Wau (Bahr-el-Ghazal)
- Rumbek (Lakes)
- Malakal (Upper Nile)
- Lokichoggio

11. In addition to information gathering *in situ*, the consultant conducted extensive consultations with some sixty national and international stakeholders based in the region. In order to secure Sudanese ownership, the study was largely driven by the analysis and information provided by national stakeholders, particularly the displaced themselves.

12. Throughout the consultations, all interlocutors expressed overwhelming support for the exercise, offering unlimited time in sharing their insights on Sudan. Given the massive amount of information and the numerous details provided, it has not been practical to include all material. Even so, without the knowledge, experience and constructive attitude of everyone interviewed, this study would not have been possible.

C. REPATRIATION AND RETURN

Overview

13. The civil war in Sudan has generated approximately 4 million IDPs and some 600,000 refugees.² Although the country shares borders with nine neighboring nations, Sudan has the largest IDP population in the world. The majority of IDPs from the South are currently in GoS controlled territory (North and garrison towns in the South). While some protection concerns relate, specifically, to their displacement, return, reintegration and local integration, the greater part of protection issues apply across the board, affecting displaced in SPLM/A areas and refugees in neighboring countries alike.

14. The displaced categories can be divided into four groups:

- Those who want to return immediately following a peace agreement;
- Those who will wait and see pending the establishment of basic services;
- Those who are willing *and able* to return prior to a peace agreement and organized return;
- Those who have integrated/wish to integrate in their location of displacement.

15. Over the past year, the humanitarian community has conducted assessments to determine the scope and number of returnees in an organized return/repatriation exercise, following signature of the peace agreement.³ However, there is still a degree of uncertainty as to whether there will be a massive flow of displaced returning back in a shorter period of time, or, rather, small groups trickling back over a longer period of time. There is also a possibility that some people will move north towards urban centers in search for economic and educational opportunities.⁴

16. Spontaneous returns and go-and-see-visits have been ongoing since the agreement on a cessation of hostilities in late 2002, and seem to continue to areas that have gained a certain level of stability and tranquility.⁵ WFP estimates that 20,000 displaced have returned via Northern Bahr-el-Ghazal since 2003, while NGOs and authorities on the ground report anything between 10 to 100 arrivals daily (given the lack of systematic monitoring and registration, numbers tend to vary).

17. According to the UN Emergency Population Returns Program, of the 4.5 million displaced persons, an estimated 1.1 million displaced persons may return spontaneously

² IDPs: Greater Khartoum: 2 million; garrison towns: 300,000; SPLM/A territory: 1.4 million. *Refugees*: Uganda: 223,079; Ethiopia: 88,194; DRC: 69,473; Chad: 65,491; Kenya: 59,500; CAR: 36,000; Egypt: 30,334.

³ The latest survey was conducted by CARE, FAR and IOM in the IDP camps in Khartoum, *Measuring the Temperature*, February 2004.

⁴ NGOs on the ground note that, besides a general movement back-and-forth, some new arrivals return to the North disappointed with the lack of assistance and basic services in the South.

⁵ Memorandum of Understanding of 15 October, 2002 on cessation of hostilities and unimpeded humanitarian access.

to Southern Sudan in the coming six months (March – August 2004).⁶ At this point of time, return seems most feasible to the following areas due to their relatively stable security situation:

- Nuba Mountains
- Bahr-el-Ghazal
- Western Equatoria
- Northern Upper Nile
- Lakes

18. When a peace agreement is signed and conditions are conducive to return, a more organized return program will be put in place. Although population movements are generally difficult to control, every effort must be made to facilitate a large-scale return that is as orderly as possible. In this regard, it will be essential to ensure that the displaced are in a position to make free and informed choices; that the roads of return are de-mined and accessible; and, that a degree of security coverage exists.

19. In assessing the protection needs in the actual return process, the following three phases are relevant (excluding the fourth on Reintegration, which will be examined separately):

- Location of Displacement
- Safe Passage
- Arrival/Reception

Location of Displacement

20. The majority of the nearly 2 million displaced in Greater Khartoum live in four official camps (270,000) and squatter areas. The conditions for the displaced are generally appalling. Lacking adequate access to basic infrastructure, including education and health, the search for means of survival adds to the IDP's already vulnerable situation.

21. Some 44% of the IDPs in Khartoum have no education.⁷ Many lack employment opportunities, while others are exploited as cheap labor. IDP women who have found jobs as housemaids in Khartoum earn around 4,000 Sudanese Dinars (\$16) per month, while some of the 'more fortunate' men are paid 500 Sudanese Dinars (\$2) per day as construction workers. In the absence of adequate income-generating projects, some women resort to beer brewing, which is illegal under Sudanese law. These women often end up in prison together with their minor children for months.

⁶ The planning figure provided by the Sudan Relief and Rehabilitation Commission (SRRC) amounted to 3 million and was modified in a compromise with the UN to 1.1 million, and thus the number is rather a political figure.

⁷ Global IDP Database. www.idproject.org

22. The lack of a viable income renders parents unable to support, let alone pay school expenses, for their children. As a result, children take to the streets where they become prey for exploitation by the military (notably in the garrison towns), drug-dealers and other criminals. While rape reportedly occurs to a smaller extent around the camps in Juba, Malakal and Wau, many displaced women in both the South and North feel compelled to resort to prostitution in order to make ends meet.

23. A general sense of personal insecurity prevails in the camps. Besides the presence of small arms and the occurrence of inter-tribe conflicts, many IDPs have lost trust in their tribal leaders, whom they claim are bribed and serve as informers for the authorities. In the North, some believe that the camps have become a sub-platform for the divide-and-rule policy, wherein individual chiefs communicate directly with the GoS authorities, rather than via the elected Popular Committee. The IDPs claim that, by turning tribal leaders into 'political agents', the traditional security network has been eroded, reaching a point where people in the same community no longer trust each other.

24. Reportedly, the police and security forces frequently break up groups and question the participants on their discussions, sometimes arresting individual participants: "If we discuss politics during the day, we risk being arrested at the night." According to the IDPs, surveillance of the camps is not related to protection, but rather to political pressure. Held captive by fear, few attempt to claim their rights.

25. A incident in early 2004 in the then Mayo school camp outside Khartoum (a particularly tense camp) illustrates how the lack of general security can easily escalate into great tragedy. During February and March 2004, over 3,000 IDPs arrived from Darfur to Mayo camp. On 17 March, a group of Darfurian students from Khartoum University visited the camp to speak to the IDPs. In response to their presence, the police and security forces mounted a massive intervention with teargas, stones and beatings. That night, five of the students were reportedly killed. The following day, the IDPs from Darfur were forcibly relocated and, as a result, some were separated from their children.

26. "When the police started shooting in Mayo camp, my ten and eleven year old sons thought this was Darfur all over again, so they ran" one relocated IDP women cried out to an international, who had arrived at the scene. "Now, I have lost them, and the police won't let me go back to Mayo to find them". With a glazed look, she explained that her husband and two of her other children had already been killed in Darfur when their village was raided and burnt.

27. IDPs are frustrated by the lack of regular international presence and protection monitoring in the camps. They claim that, when visiting the camps, international UN and NGO officials tend to be accompanied by the authorities or to meet with the IDPs in large groups and 'town-hall meetings'. IDPs argue that these venues do not promote a sense of confidentiality and trust, and thus many opt not to speak up at all, while others may raise general concerns – albeit without much detail.

28. A handful of national NGOs provide legal assistance to the displaced in Khartoum, among them People Legal Aid Center (PLACE), which follows up on individual cases of disappearance and gender-based violence (GBV). Fellowship for African Relief (FAR) is among the few international actors that seek to address the weak linkages between IDPs and broader policy decisions. In view of the return process, FAR plans to establish IDP information centers to strengthen communication of information to and from IDPs, and also to provide legal aid.

29. Notwithstanding the valuable work of these NGOs, the irregular presence of internationals and the lack of protection monitoring in the camps render the IDPs extremely vulnerable to arbitrary violence and interference by authorities. The caseload of these violations is in itself daunting and, with the current capacity of the protection community, impossible to address.

30. At present, the authorities are demolishing Wad el Bashir Camp and Omdurman al Salam Camp outside Khartoum with an intention to allocate permanent plots to the IDPs. According to the authorities, the demolitions are done in an effort to address the problem of overcrowded and hazardous camps, replacing them with residential and commercial areas for the benefit of the displaced. However, the methods used are seen as excessive and harsh, as they leave many IDPs without alternative accommodation. While the demolition of camps and allocation of plots might be an effort on the part of the authorities to facilitate local integration, many IDPs believe that the plots are meant to serve as an incentive to stay in Khartoum, so as to solidify the presence of Southerners in the North.

31. FAR and CARE closely monitor the ongoing demolitions and follow up with the authorities. Major concerns relate to criteria under which plots are allocated, the financial implications for the IDPs (who have to pay for reconstruction of new houses) and the need for alternative accommodation for those who have not yet been allocated a plot. Other than the demolition of camps and distribution of plots to some, there is no official plan (neither by the authorities, nor by the UN) for the local integration of IDPs wishing to remain in the North.

Recommendations:

- ***Increase the presence of international staff in the field and in IDP camps.*** Permanent international presence is imperative in building a relationship of confidentiality and trust with beneficiaries as well as with national counterparts, and to conduct adequate protection analysis, assessment and intervention. Parallel efforts should be made to raise the awareness and build the capacity of local authorities and law enforcement officials to comply with national policy guidelines on the protection of displaced and international standards.⁸

⁸ HAC Policy Paper on IDPs and returns, January 2004

- ***Monitor the push-and-pull factors that may impact the return process.*** International presence should serve to address the existing protection needs as well as those that might impact the return process. Close attention should be given to political, military/security, social and economic factors in both North and South that may influence the ability of displaced to return based on: (a) free and informed choices; (b) establishment of conditions conducive to return and reintegration.
- ***Assess the options for local integration in the North.*** The intentions and conditions connected to the current demolitions of IDP camps and distribution of plots should be examined. Consultations should be held with concerned displaced persons as well as with the national authorities. There is a need to seriously assess the option of local integration in the North. This includes engaging with GoS on their plans and their requirements from the UN Country Team (UNCT), NGOs and donors to promote sustainable options for local integration.

Safe Passage

32. There are several threats to safe passage en route, notably the presence of militia and mines. While no mine incidents have been reported thus far, some of the return routes are still contaminated (see Section D), and the threat of the militia is a very real one. Arrivals interviewed in Northern Bahr-el-Ghazal testify to the presence of militia along the route between Southern Kordofan and Northern Bahr-el-Ghazal, especially “no-man’s land”, extorting illegal taxes.⁹ Allegedly, returnees encounter militia/armed men more than once along the route, and each time they are expected to pay around S.D. 1,000 (\$4) per person.

33. In response to the existing threats to safe passage, the UN Emergency Population Returns Program Plan spells out the need for protection monitoring on the return routes, including reporting and intervention.¹⁰ In addition to preparing an information campaign that will facilitate free and informed choices, IOM is currently conducting a practical return survey, using existing information and maps, and traveling the routes to assess the logistical/transport needs. While spontaneous return is sometimes encouraged, the current conditions in the South are not conducive to return, and, thus, return should not be encouraged. In this vein, assisted transport is not provided during the current phase of return, other than to those who find themselves stranded or in distress.

34. However, during *organized* return (following the peace agreement and the establishment of conditions conducive to return), it is anticipated that only “especially vulnerable” and “skilled” returnees will be provided with transport. In support of this

⁹The area between Mayin and Majram is considered “no-man’s land”.

¹⁰ Sustainable Population Returns: UN Emergency Program Plan, 10 March, 2004 (renamed the UN Emergency Population Returns Program Plan).

position, it is argued that assisted transport will cause logistical problems, and will (presumably) not be funded by donors. It has even been said that assisted transport should not be provided since it would 'encourage' large-scale return.

35. The issue of transport is a cause of concern to IDPs who vocally express their disappointment: "You ask me if I have \$200 to pay for transport. I ask you what is the duty of the authorities and the international community?!" The categorization of "especially vulnerable" and "skilled" returnees is a particularly sensitive matter that stirs lengthy moral discussions: "We are all vulnerable. Whoever thinks that we can walk from Khartoum to Juba in dignity should step in our shoes and walk with us."

36. Sadly, some humanitarian actors tend to dismiss the genuine concerns of the IDPs as "unrealistic expectations". Indeed, it is unreasonable to expect IDPs to produce \$200 out of a \$16/months salary that does not even cover daily survival (without selling off whatever valuables they have remaining or resorting to prostitution or crime?). Nor is it advisable to "keep [returnees] moving as quickly as possible" in punishing heat across a nation half the size of Europe.¹¹ Most tragic is the perception that such planning assumptions in any way would be consistent with protection principles on "safe and dignified return" or with the spirit and letter of the Guiding Principles.¹²

37. Similarly, the selection of "especially vulnerable individuals" out of a generally vulnerable population seems risky. It is never as important to keep families together as during the phase of return. The separation of families, care-takers and healthy heads of households might have severe implications on reintegration, since vulnerable groups need the support of their wider community to reintegrate, and thus cannot afford to arrive six months in advance on their own.

38. Furthermore, the gap between the displaced expectations of transport and the position of the humanitarian community may impact the IDP' ability to make free choices. In fact, Southerners believe that the lack of assisted transport will discourage the return of IDPs, who would otherwise opt to return if they had the means to do so. The different principles of return applied to refugees and IDPs, and among IDPs, if promoted by the international community, could also be seen as an unfair and unethical policy that does not ensure equal and fair treatment for all returnees.

39. As in many other return/repatriation movements, there is a possibility that the parties (GoS and SPLM/A) will seek to influence and orchestrate return and repatriation. While the GoS prefers a slower, incremental return process, SPLM wants to accelerate the return. It is believed that both approaches are underpinned by political objectives, such as

¹¹ Sustainable Population Returns: UN Emergency Programme Plan, 10 March, 2004, page 4, paragraph 7, states: "The goal will be to keep people moving as quickly as possible...".

¹² IDP Guiding Principle #28: "Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country." Should the authorities be unwilling or unable to shoulder their responsibilities, The Handbook for Applying the Guiding Principles on Internal Displacement states: "International aid takes many forms, *including transport* of internally displaced."

solidifying support in connection with the referendum, retaining cheap labor and/or increasing funding for long-term transit camps and returnee projects. Thus, the IDPs stand the risk, once more, of becoming pawns in a larger power struggle.

40. According to IDPs in Khartoum, the local municipality is conducting registration in the camps, claiming that the registration is intended for organized transport following the peace agreement. Reportedly, the IDPs are asked as to whether they want to return, their political affiliation, and whether they intend to stay in the South or cross between South and North. Given the nature of the questions, especially those enquiring about political associations, the IDPs are, however, wary and some refuse to register.

41. More alarmingly, Southerners, including those displaced in the North, express fears that the latter will not be allowed to return *en masse* to the South. These fears can be traced back to the time of displacement. Reportedly, the GoS Army blocked routes out of Sudan during the war, preventing most Southerners from seeking refuge in neighboring countries. The only escape route that was open to these fleeing groups led to Khartoum and the North. As a result, threatened populations either made their way on the only escape route or were directed to the garrison towns by the GoS army for transport by cargo planes to Khartoum.

42. Allegedly, the political objective of this containment policy was to place a significant number of Southerners under GoS control, and thus undermine political and military support for the rebellion. There is now a concern that these policies will resurface and impact the return of Southerners. “Something will happen. It might be big, it might be small,” is a frequently voiced warning.

43. In view of the ongoing efforts to achieve a political framework in Naivasha, and the explicit commitment made by GoS and SPLA/M to promote safe return of the IDPs, there is a possibility that these fears are simply imagined and exaggerated.¹³ However, given the multitude of existing protection problems for IDPs, as well as allegations of current practices in the West, these claims cannot be ignored all together.¹⁴

44. Given the sense of insecurity experienced by IDPs in camps in the North, and the concerns related to safe passage, IDPs have expressed a wish to be registered by international organizations before returning: “You need to register us before we depart. You need to know how many we are and how many arrive. Otherwise, if we die on route, you won’t even know”.

45. Without passing judgment on the validity of these concerns, registration of refugees and IDPs is an essential instrument for protection and for the identification of durable solutions. This includes protection against forcible or involuntary returns, protection of

¹³ A Joint Humanitarian Aid Commission and Sudan Rehabilitation Commission Policy Framework for the support and return of displaced persons in post-conflict Sudan, 29 January, 2004.

¹⁴ Reportedly, a similar policy of containment is practiced in the ongoing conflict in Darfur, where threatened populations are allegedly prevented from crossing into Chad – not to gain access to the media, nor to link up with the rebels.

access to basic rights, family reunification and the identification of displaced persons in need of special assistance, as well as a means to enable quantification and assessment of needs. As such, all displaced should be registered prior to their departure.

46. A recent survey by CARE, FAR and IOM indicates that there are issues of distrust of political leaders, police and authorities.¹⁵ These statements must be further examined both in view of protection in the current location of displacement and during the return process. It is also essential to ensure that IOM's forthcoming information campaign be accompanied by presence, monitoring, registration and transport – of which all are mutually reinforcing protection tools that together can mitigate and prevent possible threats to freedom of choice and safe passage.

Recommendations:

- ***Establish benchmarks conducive to return/repatriation.*** In the absence of a peace agreement, security and basic services, the current conditions in the South are not conducive to large-scale return/repatriation. In preparing for an organized return following the peace agreement, and in collaboration with the GoS and SPLM/A, the UNCT should develop a set of benchmarks that indicate how and when conditions in the South should be considered conducive to organized return/repatriation.
- ***Conduct a multi-sectoral information campaign.*** Information campaigns should be factual and informative, advising the displaced of the security and political situation, as well as the socio-economic conditions in their area of intended return. Return/repatriation reports should be based on inter-agency consultations and provide multi-sectoral information. One idea would be to use the displaced themselves in these campaigns to transmit the messages.
- ***Combine information campaigns with international monitoring.*** While a massive information campaign may strengthen the odds of voluntary return (or local integration), it is by no means a guarantee for free and informed choices. Dissemination of information has to be reinforced by presence, monitoring, analysis and intervention both in the location of displacement and along the routes of return.
- ***Register IDPs in location of displacement/departure.*** Registration in the place of displacement should be linked to transport and connected to registration on arrival. This will require a coordinated approach between the HAC and SRRC (through the Joint Operations Center), UNHCR, IOM and other relevant agencies and NGOs. Drawing on UNHCR procedures, such registration forms may include basic biodata, accompanying family-members, assets/property and place of intended return. Active international monitoring at both ends, including a formal commitment from the authorities, will be necessary to enhance

¹⁵ *Measuring the temperature*, February 2004.

confidentiality and ensure that information provided is not being used against the displaced or returnees.

- ***Review options for providing transport to displaced during phase of organized return.*** Safe passage is closely linked to assisted transport, which in turn should be viewed for what it is, i.e. a protection tool. UN agencies with expertise in organized population movements, protection, transport and logistics (UNHCR, IOM and WFP), should investigate the options of barges, steamers and trains.
- ***Ensure safe passage along return routes through deployment of UN military observers, UN agencies, international and national NGOs (consortium).*** In support of the monitoring activities envisaged in the UN Emergency Population Returns Program, the forthcoming UN Mission should, during organized return, deploy monitors on the routes of return, particularly in ‘no-mans land’.^{16 17} Simultaneously, NGOs and UN actors present on the ground should create networks/consortiums that monitor the routes, gates of arrivals and communities of return. International presence will require close collaboration with national authorities, who have the ultimate responsibility for security, and locals who know the terrain and conditions.

Arrival/Reception

47. At present, there is no organized registration or provision of assistance to spontaneous arrivals in the South, who usually lack food, water, shelter and basic tools (even though they might carry other personal items). Local authorities lack training in registration, supplies and transport, and the capacity, unless addressed immediately, will fall far short of the needs they will encounter.

48. In Bahr-el-Ghazal, WFP, SC-UK and Christian Solidarity have tried to meet the needs through general food distribution, delivery of items available in stock and provisional training in registration. However, in the absence of a system-wide response, these actors have largely been left to find *ad hoc* solutions on their own.

49. An illustration of the current needs and lack of capacity to meet those needs is that of Warawar in Northern Bahr-el-Ghazal. In the absence of transport, the SRRC County Commissioner relies on the NGOs to give him a lift to the gates, where he valiantly attempts to register the arrivals in a worn-out notebook. Lacking any commodities, the commissioner has pathetically stocked up a handful of dried grass-huts to provide shelter

¹⁶ The UN Integrated Mission/Peace Support Mission/DPKO Mission is referred to as the UN Mission throughout this report.

¹⁷ It will be particularly important to monitor the so called “no-mans land”, since most violations do not occur at the check-points, but rather in remote areas.

to women and children as male members of the family go back-and-forth, assessing the villages.¹⁸

50. On interviewing the transiting IDPs under a tree outside the temporary grass-huts provided by the commissioner, they appeared resolute to rebuild their life in the South. “But, first of all,” said one, echoing the feeling of all gathered, “we need a *panga* to build a *tulku*, because our home is gone and so is our community”. The scene of returnees lacking basic tools to construct a hut and the powerlessness of the local commissioner attempting to receive his people, is a tragic illustration of how very real needs fall through the cracks of policies and planning.

51. While refugees will be provided with basic kits before their departure, there are no plans to distribute starter kits to returning IDPs.¹⁹ Some argue that distribution of kits will lead to abuse by locals, who may be tempted to cross back-and-forth to pick up returnee packages. Although this concern is valid, it should not lead to the dismissal of basic kits for returnees, but should rather serve as an additional argument for the need to establish systematic registration and monitoring of “departees” and arrivals.

52. Yet, the principal objection to basic kits is that it may cause friction between communities and arrivals – an assumption that has not been confirmed during consultations with communities in the South. Instead, in areas where almost everything is considered community property, “stayees” would welcome a contribution from the returnees (like a new cooking pot). Said one international NGO official with twenty years’ experience at community-level in the South: “It is absolutely necessary to support returnees. Provided that the kits do not create a drastic disparity between the returnees and “stayees”, there is no evidence that basic kits will become a major cause of tensions.”

53. It is indeed understandable that the bulk of assistance and development should be community-based and target receiving communities. However, this should not exclude consideration for the specific needs of returnees. The provision of arrival kits would not only enable returnees to settle in deserted or previously non-inhabited areas, but would also empower them to return in dignity to their own impoverished communities - arriving as someone who contributes, rather than someone in need.

54. In addition to registration and assistance needs, there is a possibility that authorities will try to impose restrictions on freedom of movement, attempting to influence the returnees’ rights to settle wherever they wish. There are already indications that returnees may not be able to choose their place of residence, should it conflict with the parties’ political and/or economic interests.

55. In the garrison towns, HAC authorities state that they intend to convert existing IDP camps into transit centers, where the returnees are meant to stay until basic service and

¹⁸ Similarly, local authorities lack the capacity to meet the needs of those displaced from ongoing hostilities in Upper Nile. For instance, the local HAC Commissioner in Malakal was unable to respond to the needs of the IDP influx in Malakal town in March 2004.

¹⁹ Basic kits containing a machete/*panga*, a mosquito net, a cooking pot, a bucket and utensils.

civil administrations have been established in their destinations (mainly SPLM area). HAC in Wau envisages that returnees will have to remain in the transit centers up to 18 months. These plans indicate potential protection problems.

56. At first sight, the idea of transit centers might seem harmless given the lack of space in Wau town: “There is not a square meter free between the airport and the town to accommodate returnees,” one NGO official rightly pointed out in defense of the HAC intentions. However, apart from the fact that the transit camps might just turn into another long duration accommodation, there is a possibility that the idea of transit camps is a way of keeping the Southern returnee population under GoS control. Naturally, most returnees will not chose to move from one camp to another, unless they are forced to do so.

57. The humanitarian community strongly opposes the establishment of long-term transit-centers, but recognizes the need for short-term reception facilities. The UN Emergency Population Returns Program envisages “transition-centers”, which will be run by the authorities for the purpose of registration of arrivals. However, unless there is an international presence in these transition centers to monitor registration procedures and ensure freedom of movement (accommodation should not exceed 48 hours), many protection issues affecting returnees may go unnoticed.

58. The SPLM/SRRC, on the other hand, does not want the returnees to stay in the towns, but intends to direct them to the countryside. The authorities in the South appear concerned with promoting agricultural productivity, thus paying little attention to the needs of urbanized returnees. Said the SPLM County Secretary in Rumbek: “We don’t want people idling in the towns, they need to go out and cultivate the land”.

59. Even though there might be justification for the SPLM/SRRC to promote agricultural self-reliance and farming activities in the South, the individual’s right to chose his/her residence in this context supersedes the ‘interest of the state’. Urbanized returnees will most probably want to settle in, or nearby, the towns, which will require investment in urban services to accommodate a large number of urbanized returnees and allow an organic development of urban centers and towns.

60. In an effort to strengthen system- and nation-wide coordination, the Sustainable Returns Team (SRT), including the Area Coordinators’ network, was established in 2003. Currently, the SRT is in the process of assisting HAC and SRRC to establish Joint Operations Centers in Rumbek and Khartoum. The Joint Operation Centers will facilitate humanitarian intervention, restoration of service, link relief to development and measure impact and progress. At the county level, agency focal points, supported by a Joint Rapid Response Team, will be designated to link to the Area Coordinators’ network with respect to needs assessment, monitoring, and implementation of activities.

61. These coordination mechanisms are still in their early stage, and their operational capacity is not clear. In this regard, it will be essential to ensure that protection experienced agencies are substantially involved in further developing these structures. In order to facilitate and support the activities of operational actors, OCHA plans to deploy

Humanitarian Affairs Officers, who will have a protection coordination remit and be attached to the Area Coordinator's network. In addition, OCHA has suggested that an operational protection resource/support agency be appointed to guide protection policies and operations.

Recommendations:

- ***Examine how existing coordination mechanisms can most effectively support operational protection actors, and consider appointing a support/resource agency on protection.*** Given the need to deploy protection-experienced staff to operationalize protection, the UNCT should review its capacity to support these efforts through existing coordination mechanisms. It should also consider appointing a support/resource agency to strengthen operational coordination of protection.
- ***Support the capacity of authorities to receive returnees.*** There is an immediate need to train local authorities in the monitoring of movements (in- and -outgoing) registration, transparency and accountability, as well as to enable them to meet the needs of new arrivals during the phase of spontaneous returns. UNHCR would be well placed to provide training in monitoring and registration.
- ***Engage receiving communities in the return process.*** Local communities should be consulted and engaged in the preparation and planning for the reception of returnees, including in providing temporary assistance in reception areas. Building on community-based structures, *reception/return communities* (including both men and women) could be established to work with the local commissioner. By engaging communities in the return process, they will not only experience a sense of meaning in a seemingly meaningless environment, but it will also help transcend barriers that may exist between those who fled and those who stayed behind.
- ***Establish a legal framework for the return of IDPs/ 'Tripartite Agreement' between UNCT, HAC and SRRC.*** In order to obtain a more formal commitment to respect the rights of the returnees, it might be necessary to establish a legal framework in the form of 'tripartite agreement' between the UN, HAC and SRRC. Such an agreement should spell out benchmarks and conditions conducive to return and legally commit all parties to promote safe passage and freedom of movement of returnees.
- ***Closely monitor the establishment and management of transition centers.*** As a general rule, transit centers should be discouraged during the return/repatriation process. Reception facilities can be used for registration and distribution of arrival kits, and should provide no more than 48 hours' accommodation. While the authorities will manage the transition centers, international staff should be present and work closely with the authorities.

- ***Invest in urban services.*** In order to facilitate freedom of movement and reintegration of urbanized returnees, humanitarian and development actors need to complement investment in rural areas with reception capacities, infrastructure and basic services in urban centers and towns.

D. REINTEGRATION AND RECONCILIATION

Overview

62. If, as discussed, the return process will be subject to a number of protection issues, the reintegration phase will present even greater challenges to human security. While a formal peace-agreement is a pre-requisite (but not an exclusive benchmark) for organized return, reintegration will ultimately depend on the conditions for human security and sustainable development. At the heart lays the daunting task of transcending the forces of violence and building a culture of peace.

63. South Sudan is a militarized environment inhabited by a population traumatized by a brutal war. It is a region that suffers from chronic underdevelopment, unable to provide most basic services, food, health and education, to an extremely vulnerable population. These destructive dynamics and devastating gaps are in turn related to a vast array of interdependent issues that impact the protection of civilians:

- Military, militia and armed civilians;
- Lack of rule of law;
- Landmines and UXOs;
- Separations (abductions, child mobilization, street children);
- Gender-based violence;
- HIV/AIDS;
- Conflict over land and property;
- Lack of documentation and registration.

64. These threats will not be removed prior to the return of the displaced, but will rather remain a great risk to reintegration, confidence- and peace building in the years to come. There is, therefore, a possibility that many displaced people will either be discouraged from returning or will unsuccessfully attempt to reintegrate.

65. However, there is yet the possibility of reversing the odds. Returnees also represent an opportunity for rehabilitation, reconstruction and reconciliation - provided that an integrated and comprehensive approach to relief and development is adopted.²⁰ This multi-sectoral approach has to be underpinned by human security.

Security, Military and DDR

66. Military activities, tribal fighting and small arms represent the greatest threats to reintegration. While the security situation has improved in the Nuba Mountains since the

²⁰ In order to strengthen the sustainability of repatriation and reintegration, UNHCR has developed the 4R Framework (Repatriation, Reintegration, Rehabilitation and Reconstruction), which calls for an integrated and comprehensive approach to relief and development among humanitarian and development actors as well as national authorities. The overriding objective is to ensure that the particular needs of returnees are included in long-term development planning, and that the human capital of returnees is utilized in the reconstruction and rehabilitation of post-conflict societies.

ceasefire agreement in January 2002, and in the South since the cessation of hostilities in October 2002, many areas remain unstable and tense due to armed activities. The numerous groups whose possession of arms constitute a current or potential threat to human security include:

- Sudan Armed Forces (SAF)
- Sudan People's Liberation Army (SPLA)
- Allied forces;
- Militia;
- Armed civilians.

67. It is hoped that the Naivasha Security Arrangement and the parties' formal commitment to downsize and bring militia and allied forces under control, will contribute to building an environment conducive to return and reintegration.²¹ However, opinions differ as to whether the GoS and SPLA are willing or able to contain and remove militia forces. Several interviewees pointed to the recent use of militia in Upper Nile and in Darfur to substantiate their general fear that the militia will be used to fight proxy wars.

68. Indeed, while some tribal skirmishes (between tribes and within tribes) are triggered by competition over local resources, major inter-tribe conflicts are often manifestations of a continued war by proxy between North and South. As one observer put it: "There is more than enough kindling found in local grievances if the GoS or the SPLM/A want to spark a crisis that cannot be directly blamed on them – the question is how much do they want to resist that temptation."

69. A case in point is the current fighting between pro-GoS Shilluk militia and SPLA-supported Shilluks in Upper Nile, which has generated a new wave of displacement to Malakal.²² The Tonga road is a major area of tension, where both the GoS militia and SPLA extort illegal taxes.²³ It is said that the militia in this area feel particularly marginalized by the peace-negotiations, questioning what they will gain from a peace agreement. Allegedly, the current violence in Upper Nile is yet another example of fighting instigated at national level, whereby bribes and privileges are used to create tension within Southern tribes.²⁴

70. Similar dynamics play out in Unity State, notably in Bentiu and around the oil fields, where militia, reportedly hired by the oil companies, and inter-tribe fighting between Bol Nuer and Adok Nuer, continue to cause displacement of civilians. Fighting in early 2004 along the "oil-road" between Malakal and Bentiu displaced more civilians, whose prospects of return are grim.

²¹ Agreement on Security Arrangements During the Interim Period, 25 September, 2003.

²² According to WFP (March 2004), some 14,000 IDPs have arrived in Malakal since January 2004, while another 15,000 are presumably hiding in the forests.

²³ Kosti – Tonga – Malakal – Juba. The GoS governor in Tonga is also the commander of the Shilluk militia.

²⁴ In January 2003, Nuer GoS militia and SPLA Shilluks engaged in fighting in the Sobat corridor.

71. Eastern Equatoria remains, currently, the most dangerous area in South because of the Lord's Resistance Army (LRA), which continues to pose a real threat to civilians, humanitarians, as well as a future UN Mission. The reported atrocities committed by LRA only serve to maintain the climate of fear in the South. Meanwhile, while the GoS allied Equatorian Defense Force has been under control since the cessation of hostilities, the Zandes and Dinka tribes continue fighting over grazing land in Western Equatoria.

72. Another area of tension is Juba. A major crossing-hub in the South, the atmosphere in Juba is especially militarized and stifling, contributing to a particularly subdued population. In addition to the heavy military presence of GoS, it is alleged that Joseph Kony, head of LRA, travels freely in and out of Juba.

73. In Wau, it is said that the militia has been absorbed by GoS. In comparison to garrison towns located outside Bahr-el-Ghazal, the situation indeed appears calm and less militarized. Civil authorities, law-enforcement officials and the military have proven receptive to training program on human rights and peace building conducted by CARE and IRC. By contrast, fear and insecurity among IDPs and the general population is particularly prevalent in garrison towns like Juba and Malakal.²⁵

74. While farmers, 'non-intellectuals', traders, women and children are generally afforded freedom of movement across GoS-SPLA lines (often for the purpose of go-and-see visits, family-visits and trading), it is implicitly understood that educated or "politically inclined/active" men should not attempt to travel between the two territories, or else they will be suspected of spying. Both GoS and SPLM/A have their own channels of monitoring individuals whom they might suspect of being 'traitors'.²⁶

75. While freedom of movement and access have improved for internationals, security clearance remains a requirement, even for IDP camps.²⁷ The internal travel permission regimes instituted by the GoS and the SPLM/A can, and are, manipulated by the authorities to disrupt or influence programming activities by the aid community. A peace agreement should make these regimes redundant, as the biggest concerns (security, areas and lines of control etc.) will be addressed in the deal. However, should the institution of formal security clearance continue beyond the peace agreement, there is a real danger that they will remain a mechanism to impede access and assistance to certain vulnerable groups.

76. There is a general consensus that GoS and SPLA military commanders have better command and control to instruct their forces not to harass the civilian population, following the cessation of hostilities. In areas of direct communication (major towns), commanders do indeed attempt to maintain a relatively strict discipline with their soldiers. One high-ranking SPLA commander in Bahr-el-Ghazal recalled how he

²⁵ Juba is a major strategic town, while Upper Nile (including Malakal) is one of the more tense areas in the South due to oil, militia and inter-tribe fighting.

²⁶ Only SPLA appointed radio-operators are permitted to work for NGOs in the South.

²⁷ Operation Life Line Sudan (OLS) achieved a groundbreaking legal framework (Ground Rules) for access to SPLM/A controlled areas in South Sudan in 1989.

intervenes personally in guiding and reprimanding lower-ranking officers. However, the further removed from the towns and compounded by the lack of communications, the more likely troops are undisciplined and the incidence of violations increases.

77. It is anticipated that violence will continue to plague certain areas in spite of a peace agreement, especially in Upper Nile where many issues remain unresolved due to militia, oil and ongoing displacements. It is also predicted that the period immediately following the conclusion of a peace agreement will see an increase in isolated violence. There is a fear that ex-soldiers returning home or roaming around might take to looting and raping. There are also fears that disarmed youth and returnee youth will either opt to join the army to obtain benefits or resort to crime. This is particularly risky considering the war-mentality that now prevails coupled with scant education and employment opportunities. Similarly, many in the South believe there will be a sharp rise in retaliatory or revenge killings emanating from abuses over the last twenty years.

78. This is further compounded by the massive number of small arms. “Every family has an AK7 at home, even my wife has her own”, one Southerner explained. “The danger is that we might use them the next time we quarrel,” he added to illustrate the depth of the problem. Similar to Afghanistan, hunting rifles and firearms are an integral part of the culture. The war has exacerbated this problem as communities view their arms as a means of protection in the absence of rule of law.

79. Imbued with a strong sense of a right to own arms, people will not relinquish them without adequate protection and security guarantees. Even then, there might be resistance to handing in arms. Rumors suggest that the SPLM/A does not intend to remove small arms altogether, but might consider collecting them for storage during the interim period. “The interim period is only a suspension of war. The referendum will be the real test of the peace agreement,” cautioned one Southerner, voicing a common concern that there may be a resumption of war, should the South vote in favor of independence.

80. The improved security on the ground can mainly be attributed to the cessation of hostilities in October 2002 (and in the Nuba mountains to the specific ceasefire agreement there in January 2002). Three major actors have contributed to strengthening the impact of these agreements:

- *The Joint Military Commission*. Established on initiative by ‘the Friends of Nuba Mountains’ (largely EU driven), the JMC was deployed in Nuba in 2002 to monitor the ceasefire and examine complaints received from the general public. Working closely with the parties, the JMC is seen as a good example of active monitoring and joint interventions, which have substantially contributed to freedom of movement and confidence building.²⁸

²⁸ Part of the progress can be attributed to the multi-sectoral approach in the Nuba Mountains, where the security sector (JMC) is complemented by humanitarian and development programs (the Nuba Mountains Pact/NMPACT).

- *The Civilian Protection Monitoring Team.* Initiated by the US Government's envoy, former Senator John Danforth, CPMT was established in 2002 to monitor the protection of civilians. On the basis of a mutual agreement between GoS and SPLA, CPMT works across the North and South. The general public (including international organizations) is eligible to submit complaints on violations, whereby CPMT investigate the allegations, share their findings with GoS and SPLA and make public their reports.
- *The Verification and Monitoring Team.* VMT is an IGAD driven mechanism that was established in February 2003 in an addendum to the cessation of hostilities agreement of October 2003. Mandated to monitor compliance, VMT conducts joint investigations with GoS and SPLA on violations raised by the parties. Although VMT technically monitors the parties' military activities, literally every complaint involves civilians caught in the crossfire. Similar to the JMC, the VMT's collaboration with the parties has contributed to confidence- and capacity-building.

81. All three mechanisms have gained the confidence of the GoS and SPLA. However, international organizations and national stakeholders feel that the mandates of VMT and CPMT limit their capacity to intervene and provide redress. While the former is tied to political constraints related to the peace negotiations, the latter has no mandate to take remedial action. It is, therefore, strongly suggested on the ground that these mechanisms, including JMC, be integrated with an expanded mandate within the framework of the forthcoming UN Mission.

82. Over the past three years, approximately 12,000 SPLA child soldiers have been demobilized, and UNICEF maintains child-demobilization as its top-priority.²⁹ SC-UK and UNICEF, with the GoS and SPLA, are heavily vested in addressing child-demobilization, tracing, family reunification and reintegration of child soldiers. GoS/SAF and SPLM/A meet periodically to review progress. SC-UK is currently producing a documentary on children's experiences of demobilization, which will be used to raise the awareness of child demobilization within the IGAD process and DPKO planning.

83. Interviewees stressed that demobilization programs for child soldiers must not lead to encampment (which has happened in the past), but should focus on reintegration.³⁰ Among others, SC-Sweden has established Community Support Groups (composed of women representatives, elders and community leaders) in Bahr-el-Ghazal, Lakes and Upper Nile. The groups receive training in child rights and are engaged in the reception and reintegration of demobilized child soldiers.

84. Similarly, the DDR Working Group wants to avoid a replication of conventional DDR programs, whereby cash-incentives have proven to increase, rather than reduce, the

²⁹ Reports suggest that small-scale child-recruitment still occurs. It is believed that it is due to an assumption that the DDR process will use cash-incentives for collection of small arms, or that the war will resume in connection with the referendum.

³⁰ 3,551 demobilized child soldiers ended up in seven transit camps in 2001.

availability of arms, hence fuelling more conflict. As an alternative approach, the DDR process in Sudan will not single out ex-combatants through special privileges, but will seek to re-establish the relationship between demobilized soldiers and their communities through local reintegration programs. Instead of encampment, the DDR program will promote the establishment of demilitarized zones, reinforced by verification (using the JMC and VMT model). Rather than investing money in cash-incentives, resources will be used to strengthen the reception-capacity of communities. In this context, the UN Mission should be designed to adopt an integrated DDR approach, rather than pursuing a conventional DDR program.

85. As the return process begins, there will be a need to provide general amnesty to ex-soldiers and draft-evaders. In this regard, UNHCR will promote the adoption of an amnesty law at national level. The DDR program anticipates that a large number of demobilized soldiers and militia will receive training and become an integral part of the police force. The credibility and/or sustainability of these reintegration activities (and lasting peace) will require the establishment of individual accountability for crimes against humanity and war crimes.

86. In view of the above issues, it is necessary to define the nature of UN Mission in Sudan. The UN Mission will play a leading role in monitoring and supporting the implementation of a peace agreement, and in building an environment conducive to return and reintegration. However, the mandate, structure and capacity of the UN Mission will not be finalized until a detailed peace agreement has been signed (which will provide the framework for a Security Council-authorized deployment). In the meantime, there are hopes and expectations of what a future UN Mission can or should do.

87. Among the Southerners, there is a sense that UN peacekeepers will provide a semblance of security. To this end, the SPLM/A wants the deployment of a robust Chapter VII force, which the GoS appears unlikely to accept. The majority view among international stakeholders is, however, that the UN Mission should arrive with no more than a Chapter VI force. Some stakeholders, however, believe only a Chapter VII mandate will sufficiently empower the UN to help the Sudanese parties achieve the objectives of any peace plan.

88. The UN force will need to be deployed horizontally along the North-South border, i.e. the contested areas (Abyei, the Nuba Mountains, Southern Blue Nile). It will also be necessary to station military observers along the routes of return between North and South. However, the number of forces has not been determined, and thus the actual coverage of such vast areas, including mobility, will need to be taken into consideration. It is also uncertain to what extent these forces will be armed.

89. Many interviewees emphasize that the responsibility for security must, ultimately, rest with the parties and their commitment to peace, rather than bringing in foreign forces, and thus risk further militarization. However, it is also stressed that such arrangement will require a strong monitoring and verification mandate, if the UN Mission is to adequately promote human security and protection of civilians. In this regard,

DPKO has raised the necessity of security and protection elements within the military component.³¹ The latter will be a particularly sensitive, yet an extremely essential, issue that will have to be clarified in the UN Mission mandate prior to deployment.

90. Besides a strong monitoring and verification mandate, the UN Mission must be given the resources and technical capacity to contribute substantially to building the national capacity to establish rule of law. A major task will be to train and set up a police force that is not only competent and operational, but one that also serves the society, rather than the state apparatus, *per se*.

Recommendations:

- ***Lobby for a UN Mission that has a clear mandate, structure and resources to protect civilians and build rule of law.*** Building on the models of JMC and VMT, the UN mission should adopt an approach of close liaison and joint monitoring with the parties (both military and police). However, although the mission may take on a collaborative and capacity-building approach, it will still need enough margin of maneuver to protect civilians, should the situation warrant a more robust response. Since it appears unlikely that the UN mission will operate under a Chapter VII mandate, the mission will need a strong monitoring and verification mandate, supported *inter alia* by:
 - A mobile military component that can effectively monitor return movements and take remedial action should the situation demand; and, which is technically skilled to promote respect for the peace agreement, including respect for civil administration and rule of law, among armed forces, security and militia;
 - Highly professional civil police component that can provide technical advice, establish and train an operational and impartial police force;
 - A viable human rights component that has the mandate and resources to deploy in the field, conduct protection and training activities as well as to contribute in building the national capacity in rule of law;
 - A central role for child and gender advisers, enabling these to actively guide the UN mission in addressing the whole spectrum of military, legal, social and economic dynamics affecting women, children and youth.
 - An integrated approach to DDR, whereby all UN Mission components are designed to support and implement the Multi-Agency Coordinated Framework for DDR.
 - A strong humanitarian component that will address potential crises in other parts of the country and help pave the way to recovery and rehabilitation.
- ***Establish an NGO/UN consortium in areas particularly affected by lack of human security.*** Given the multitude of protection problems and scarce presence

³¹ Report of the Preparatory Mission to the Sudan, 27 November – 16 December 2003.

of internationals in Upper Nile and Equatoria (as opposed to Bahr-el-Ghazal), there is a need to increase international presence in these areas. To strengthen coordination at local level and engage non-traditional protection actors in protection (especially child protection) a multi-sectoral joint *pilot* consortium should be set up. Given the absence of infrastructure, the consortium could share a compound, which would also be more cost-effective.

- ***Disseminate information on the peace agreement.*** Awareness raising and dissemination should target not only returnees and the local population, but also those feeling marginalized by the peace negotiations, including militia. This should cover information on the security arrangements, including physical security, freedom of movement and the benefits of socio-economic development.
- ***Advocate International Humanitarian Law with regular forces and militia.*** The ICRC is currently scaling up its protection activities, including dissemination on International Humanitarian Law. The efforts of the ICRC to disseminate IHL should be supported and complemented by all actors who are familiar with IHL and involved in protection. Training programs on human rights, refugee law and the IDP Guiding Principles should also include reference to IHL.
- ***Ensure that a general amnesty law is in place prior to organized return.*** The modalities for general amnesty should be put in place and formalized prior to organized return, not to endanger the security of ex-combatants (or their families) returning home
- ***Examine conditions and appropriate means for establishing mechanisms on accountability.*** As for individuals who have personally instigated or committed war crimes or crimes against humanity, there will be a need to establish appropriate mechanisms for accountability and justice (whether in the form of a war-crimes tribunal and/or a truth and reconciliation commission).
- ***Ensure that demobilization and reintegration at community-level rests on national ownership and accountability.*** There should be close coordination between the DDR process and other sectors both at the political and grassroots level, including education, income-generation, governance, rule of law and reconciliation.

Rule of Law

91. Technically, Sudan is still in a state of war with martial law and emergency decrees in force. Military and security forces are the principal agents of ‘law and order’, often at the cost of basic human rights. Access to justice, including physical protection and due process of law, therefore, remains an illusion to the large majority.

92. While the North has more developed governing and judicial structures, the independence of the judiciary and the code of conduct of law-enforcement are seriously compromised. The South suffers a severe competence- and capacity-deficit in the area of rule of law, where traditional justice mechanisms have disintegrated as a consequence of the war, and statutory law is grossly underdeveloped.

93. Current community-based and statutory mechanisms to address crimes and violations of human rights are minimal and nascent at best. Women and children are particularly vulnerable. Not considered legal subjects (e.g. right to own property), women enjoy limited guarantees, while juvenile justice appears non-existent.

94. Customary law through chief and tribal structures dominates the South. Traditional conflict-resolution and arbitration have been reasonably effective in the past, mainly revolving around compensation and rehabilitation – rather than conventional punishment. In many ways, the indigenous policies illustrate a more progressive and humane approach to redress than do more technically advanced punitive systems.

95. However, the traditional system has been undermined by the war and military rule, crushing the traditional conflict-resolution and arbitration instruments of chiefs. Moreover, customary law is based on oral tradition, and thus justice varies from area to area, and tends to be more arbitrary. While the traditional system can and should be restored, a statutory system is indispensable to establishing rule of law.

96. In the South, at present, only 26 statutory laws exist, but even these are undermined by the lack of competent judiciary and enforcement capacity.³² The absence of trained lawyers, prosecutors, and paralegals exacerbates the problem of an inadequate legal framework, as does the lack of a functional police force. “When SPLM needs police, they appoint army soldiers who have no training in operational procedures or basic human rights,” one judge explained, making no secret of his frustration.

97. A region the size of Kenya, Tanzania and Uganda together, Southern Sudan has only 22 trained judges, and less than 500 police officers - the overwhelming majority untrained, prone to bribing and corruption, and lacking basic equipment (stationary, communications and transport). The undeveloped infrastructure further compounds the problem. In the absence of paved roads and communication, it is extremely difficult for local authorities to maintain rule of law.

98. Some humanitarian and development actors have conducted human rights training, targeting communities, civil society, as well as local military and civil authorities. While these efforts are essential to establish a culture of human security, national (and some international) interviewees are concerned that training has become an end in itself. Lacking follow up and monitoring, human rights training programs are not linked to the establishment of practical mechanisms that can build the capacity of law-enforcement

³² Existing statutory law does neither include land-ownership and property laws nor governance. Similarly, there exist no legislation addressing women’s rights, juvenile justice or rights pertinent to returnees.

officials, security forces and military to provide human security in people's day-to-day life.

99. Because of fear of repercussions, local peace building- and human rights committees formed in connection with training tend to be ineffective. Exposed to military rule and a police force that is either abusive and corrupt, or powerless, these committees end up viewing protection as "too sensitive". "We will be crushed, if we start claiming our rights before the authorities without international monitoring," a member of a human rights/protection committee in Bahr-el-Ghazal said. Similarly, a peace building committee in Upper Nile expressed concern that its activities were reduced to resolving trivial quarrels. In the absence of freedom of movement, security and international monitoring, the committee is prevented from engaging in any substantial conflict resolution.

100. Generally, people emerging from a war do have an inkling of their rights. The principal challenge in a post-conflict situation is to assist them in reclaiming those rights. Simply training people in human rights standards does not respond to their primary concerns for human security, nor has it proven sufficient in providing adequate protection to affected individuals and populations. Furthermore, leaving target groups (and newly formed human rights committees) behind without proper recourse, international presence and capacity-building programs is not only ineffective, but might even endanger the security of individuals and communities.

101. Community-based human rights/rule of law training must lead to tangible protection, bringing practical value to threatened communities and individuals. This should include provision of *ad hoc* protection during a transitory phase, such as the presence of international protection staff, establishment of legal aid centers and/or community-based protection committees monitored by internationals. Given the specific realities in each location, the exact design of local protection mechanisms requires close consultation with communities.

102. However, while protection activities need to be supported by international presence and *ad hoc* mechanisms during a transition period, the protection of human security cannot rely on outside forces for too long. There has to be parallel efforts to build the capacity of national stakeholders to institutionalize a culture of justice. The most effective way to promote human security is to replace a military culture with a legal framework, an independent judiciary and competent law-enforcement. Thus, transitory protection and community-based protection mechanisms must engage, and link up, with judiciary and civil administrative structures in order to be effective and sustainable.

103. The bottom-up-top-down approach to rule of law will require the input of, and close coordination between a number of players already engaged in this sector. In September 2003, UNDP organized in collaboration with DfID and Christian Aid, a Rule of Law conference in Rumbek that brought together all stakeholders involved in rule of law. The conference revolved around both customary and statutory processes, and established an initial framework for priorities and collaboration.

104. Given its expertise and experience in transitional justice and security sector reform, UNDP will be a key actor in promoting rule of law and access to justice in post-conflict Sudan. Adopting a simultaneous bottom-up and top-down approach, UNDP will support efforts to build the capacity of civil society, the judiciary and law-enforcement at the local level as well as the national level. Training of the national police force in the North will be a major and critical program. The curriculum will not only address operational procedures, but also shed light on human rights in general, and women and children in particular. It is anticipated that UNDP's training program will link up with the UN Civil Police component and UNHCHR in the forthcoming UN Mission.

105. UNHCHR currently provides training in human rights to law-enforcement officials in Khartoum. With the expected deployment of a UN Mission, it has been proposed that the human rights component be divided into three major sections: Protection Section (monitoring, reporting and investigation); Rule of Law Section (judiciary structures and legal reform); and Training Section (training and technical advise).

106. Another key player is Christian Aid, which funds the South Sudan Law Society (SSLS), an independent civil society organization based in Rumbek with satellite offices around Bahr-el-Ghazal. Through the support of Christian Aid, SSLS runs projects on legal aid, civic education, human rights monitoring and advocacy. SSLS' strength lays in its two-fold approach of training and active monitoring on the ground. In parallel with running workshops for civil society, lawyers, prosecutors, military and intelligence, it also provides legal advice (depending on the availability of laws), drafts complaints, visits prisons and police stations and monitors investigations.

107. Similarly, the Khartoum-based People Legal Aid Center (PLACE) conducts both training and intervention. An independent agency of Sudanese lawyers, PLACE collaborates with IRC in conducting human rights and peace building training, while also providing legal aid to IDPs. PLACE goes beyond traditional human rights training, also emphasizing the need to inspire the right attitude and commitment to human rights. PLACE has expressed an interest in working closely with communities in training paralegals and assist in harmonizing customary law with international standards.

108. World Vision is currently conducting a study on customary law, which might shed light on the existing practices and map out needs for intervention and alignment with international standards. In the South, the Northern Bahr-Ghazal Women's Development Center (BWDC), a project under SSLS run by female lawyers, is active in raising the awareness of women's rights at village level through negotiations. "We sit under a tree in the village and negotiate with the elderly. It might take a bit longer, but at least they will listen." BWDC also offers legal aid to women, visits prisons and intervenes with the authorities.

109. The Norwegian Refugee Council (NRC), which has extensive experience of working in countries with traditional justice, has recently established a presence in Sudan. In close cooperation with UNHCR (which too will focus on the rule of law and a number

of other sectors in the place of origin) and IRC, NRC will establish legal aid mobile teams, focusing especially (but not exclusively) on IDPs in the North and returnees in the South.³³

110. Once the peace agreement is signed, the issue of an interim constitution for the South will be imminent. Some preparatory work has been done in this regard. In a participatory process involving both sides, the Max Planck Institute has developed a framework for an interim constitution for South Sudan, which builds on international standards and the Convention of the Organization of African Unity. Following signature of a peace accord, the parties will be invited to review the draft and encouraged to agree on an interim South Sudan constitution that does not contravene the national constitution for Sudan. Subsequently, the Max Planck Institute plans to promote the establishment of a Constitutional Court.

111. Given the central role that rule of law plays in peace building, the need to rebuild and harmonize two systems (customary and statutory), and the number of actors involved, it will be essential to establish a coordinated approach to rule of law. As mentioned earlier, the UN Mission should play a prominent role in supporting these efforts. The sooner current actors on the ground can establish effective coordination, the greater the chances that there will be an effective collaboration with the UN Mission and thus, a more positive impact on the situation.

Recommendations:

- ***Deploy international staff with protection experience to fill the gap during a transitional period.*** Almost all interviewed agreed that the most critical period of the post-peace plan interim period will be the immediate weeks and months following the agreement. An injection of strong protection professionals (for the purpose of monitoring, reporting and intervention) before the arrival of returnees will be necessary to establish a working relationship with the authorities and address many issues that can lead to further crisis.
- ***Conduct protection-oriented human rights capacity-building followed by international monitoring.*** There is a need to link awareness-raising and training to the establishment of viable protection mechanisms that are monitored by internationals. A community-based security system that provides rapid response to protection/security problems can take the form of a protection-committee, which verifies and reports on violations either to internationals or – pending security guarantees - to the authorities. Either way, internationals will need to sensitize the authorities on their duty to investigate reports of incidents and hold perpetrators accountable.

³³ UNHCR has a vested interest in improving the conditions for voluntary repatriation. Further to the 4R Framework and an Agenda for Protection (2002), UNHCR will implement projects in areas of refugee return, covering all major sectors of reintegration, rehabilitation and reconstruction program.

- ***Connect community-based approaches to established structures.*** Rule of law should take on a mutually reinforcing bottom-up and top-down approach by which communities are connected to established judiciary and civil administration structures and vice versa. To this end, community-based protection and legal aid mechanisms should be implemented in such manner that they strengthen communities' relationship and access to statutory justice mechanisms, while also building the capacity of local and national judiciary and law-enforcement authorities.
- ***Align customary law with basic international standards through projects implemented by national counterparts/NGOs.*** It is generally agreed that customary law must not be subjected to a drastic reform too rapidly, and thus initial efforts to reform should be done through local partners familiar with the constraints and opportunities; and, should focus on basic protection and justice, with a particular emphasis on women and children.
- ***Incorporate international standards in statutory laws***³⁴. Particular attention should be given to the Covenant on Civil and Political Rights (1966), the Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Discrimination Against Women (1978) and the Convention on the Rights of the Child (1989). Legal reform in the North should include the engagement of Islamic scholars, who are familiar with the Universal Islamic Declaration of Human Rights (1981).³⁵
- ***Ensure inclusion of women and child rights organizations in legal reform.*** Civil society organizations and vulnerable groups should be represented in legal reform programs. National human rights, women and child rights organizations should be supported to build partnership with indigenous Sudanese professional associations that target legal reform.
- ***Conduct paralegal training and refresher courses for the judiciary followed by international oversight.*** It will take a long time to establish an independent judiciary that is empowered to safeguard fundamental principles of justice. Refresher courses and paralegal training will, therefore, need to be reinforced by systematic monitoring and follow up. In ensuring justice for the least influential and most vulnerable, it will be crucial to engage a wide range of

³⁴ Sudan has acceded to the 1951 Convention Relating to the Status of Refugees and the 1967 Additional Protocol (accession in 1974); the 1966 Covenant on Civil and Political Rights, and the 1966 Covenant on Economic, Social and Cultural Rights (a 1986); the 1989 Convention on the Rights of the Child (a 1990); and, the 2002 Optional Protocol on the Involvement of Children in Armed Conflict (a 2002). GoS has *not* ratified the 1978 Convention on the Elimination of All Forms of Discrimination Against Women.

³⁵ The Universal Islamic Declaration of Human Rights (1981) is based on the Qu'ran and the Sunnah and was compiled by eminent Muslim scholars, jurists and representatives of Islamic movements. Proclaimed by the Islamic Council in 1981, it is used by humanitarian and development actors as a reference. Among others, UNHCR engaged a Sudanese Muslim scholar to promote the declaration in Afghanistan in the late 90s.

actors, including agents normally not associated with the judiciary, such as the army and security forces.

- ***Build an operational and impartial police-force.*** The capacity-building role of mechanisms like JMC and VMT is essential in providing a reasonably secure environment and conducting capacity building, and should be considered in building a police force in the South, while improving the existing one in the North. Training of the police force should include both human rights standards and basic operational procedures, and should be geared at addressing the specific needs in the South and North, respectively. The police force (and the judiciary) must also be supported through parallel efforts to demobilize military forces, collect arms, and ensure accountability and transparency among civil and military authorities (also see recommendations on the role of the UN Mission in building a competent police force).
- ***Employ alternative ways of communicating human rights.*** Given the reluctance, or even resistance, among Sudanese authorities to discuss human rights and protection in practice (training is usually accepted), international actors need to be more creative in promoting human rights, moving away from traditional human rights language towards attitudinal change and a more moral orientation based on Sudanese traditional, religious and ethical frameworks. As mentioned above, the Universal Islamic Declaration for Human Rights (1981) could be referred to in the North. Engagement with local and national authorities should be directed at transcending the perception that justice and equity will undermine national security, while in fact the reverse is true.

Landmines, UXOs and De-Mining

112. Mines in Sudan are not as extensive as in Afghanistan or Cambodia. Roads in the North are not mined with the exception of the Nuba Mountains.³⁶ Yet, unexploded ordnances (UXOs) remain a big threat in the South, as do anti-personal mines planted in buffer zones around garrison towns.

113. Generally, an area of 60 kilometers between the garrison towns and SPLA territory is mined. Likewise, all major routes are contaminated from Abyei towards Wau; and, from Kadugli via Bentiu to Malakal, which means that some of the return routes might be contaminated. Although returnees are using these routes at present, the ground changes according to the season and mines might resurface again.

114. A part of the problem facing mine-awareness and mine action is a lack of information. Although both sides used maps during the war, GoS kept the maps with the military unit in each garrison town, while SPLA usually kept maps in a less systematic

³⁶ 200,000 square feet of mines have been cleared in the Nuba Mountains (CAP 2004).

manner. Furthermore, shifting frontlines throughout the war have led to the replanting and removal of some mines – actions not always accurately or satisfactorily documented.

115. UNMAS has received access to information in some areas, such as Wau. However, GOS and SPLA are not ready to share information on mines in areas of on-going military activity, like Malakal. It is not expected that the parties will hand over all information, even after the peace-agreement has been signed. The restricted access provided to UNMAS will directly impact some of the spontaneous returns to areas contaminated by mines and not yet addressed by mine action programs.

116. Although there is much contaminated land, the inhabitants generally know where the mines are planted. During an assessment mission to Kapoeta, herdsman pointed out the exact location of mines to the UNMAS team. The big concern relates to returnees, especially those who lack a strong bond with the locals or those who arrive in areas that have not been inhabited for a while. Because of impoverishment, people will be tempted to pick up metallic items to see how they can be used. Another risk, all too familiar in other mined countries such as Afghanistan, pertains to children who move around unsupervised and are attracted to such objects.

117. Furthermore, there is scarce data on casualties. While the North has better health-facilities and recording systems, the South lacks both. The ICRC field hospital in Lokichoggio has reported only five casualties in the past five years, which most likely does not provide an indication of the actual figure.

118. With a capacity of some 100 de-miners, UNMAS carries out surveys, conducts mine-clearance and raises awareness at the community-level. UNMAS is currently in the process of clearing the roads between Kenya –Kapoeta- Juba; between Rumbek-Wau; and, the roads between Juba – Yei – Mermule. In the near future, mine clearance is expected to begin on the roads between Juba – Bor – Malakal; between Wau – Abyei; and, between Wau – Raga.

119. As an integral part of its protection activities, UNICEF conducts mine-risk education (MRE), implemented by local organizations. These educational standard packages can be used by other NGOs within Sudan and in refugee camps in neighboring countries.

120. Given the size of Sudan and the existing information gaps, and in order to maximize UNMAS' and UNICEF's activities, UN and NGOs who are present in the field need to collaborate closely with these two actors.

Recommendations:

- ***Strengthen coordination and information-sharing on UXOs and mines.*** In support of UNMAS's efforts to map out areas and casualties affected by mines and UXOs, all UN agencies and NGOs on the ground will need to contribute. Humanitarian actors involved with health or anyone who comes across a mine-

victim or a potentially contaminated area should share this information with UNMAS. The SRT coordination mechanisms should be activated to facilitate this information sharing.

- ***Include UNMAS and UNICEF mine-risk training in all programs.*** MRE should commence as soon as possible. Actors running programs in the IDP camps and in communities in the South, particularly those reaching out to high-risk populations, like children, women and returnees, should utilize UNMAS' and UNICEF's MRE training programs.
- ***Ensure that all returnees receive mine risk awareness training.*** MRE training programs for IDPs and refugees should be coordinated, and should be offered to all returnees. In addition, an easily accessible booklet/picture book should be included in the basic kits.

Separation, Tracing and Family-Reunification

121. Separation is a core-issue of child protection in Sudan, where abductions, displacement, child mobilization, disintegrated families and poverty have contributed to the separation of children from their families within the country and across national borders. Although separation is caused by several factors, abductions constitute one of the principal and more complex ones. In fact, Sudan has one of the worst records, globally, of abduction of children. At present, the Rift Valley Institute has 12,000 cases on file, of which most (but not all) are related to abductions.

122. Abductions are often connected to conflicts over grazing land, forced recruitment, militia, internal disputes between tribes and reproduction problems. It is said that, abductions are an immediate reaction to war and fighting, and thus can resume should the situation deteriorate. Indeed abductions have been used as a military tactic and tool.

123. During the war, numerous abductions took place in Bhar-el-Ghazal, where Muraheelen (Misseriya Arabs from Southern Kordofan) accompanying the train of GoS reinforcements from the North to the South, used to abduct Dinka children and bring them to the North. Although the practices came to an end in early 2000, many children remain missing.

124. In an effort to resolve the Bahr-el-Ghazal abductions, UNICEF and GoS established the Committee for the Eradication of Abduction of Women and Children (CEWAC) in 1999. CEWAC works with a Dinka Committee in tracing and family-reunification. However, the progress has been slow. Since its establishment in 1999, only 1,700 cases out of 12,000 have gone through the system.

125. Those involved with tracing and family-reunification claim that CEWAC lacks the commitment and efficiency required. Mainly Khartoum-based, it has not been very active at the grass-roots level, which child rights organizations view as the most effective way

of tracing, given the strong social network amongst and between communities. “It is easier to identify abductees on the airstrip in Malual Kon than in Khartoum”, said one NGO official, “because there is always someone in the community who recognizes the child.”

126. At the same time, there is no capacity or preparedness to accommodate arrivals, whose relatives cannot be identified. A telling example is that of a young woman who was temporarily housed by an NGO, only to get pregnant by the guard. Another case relates to a woman who returned to the South with five children by a Northerner. Unable to find her relatives (or fearing rejection), she was taken in by another NGO. Although the number of such cases may not be significant at the moment, there is a possibility that they will grow along with the return movements.

127. In redressing the lack of field-orientation, SC-UK and UNICEF increasingly conduct tracing and identification in the field and amongst communities. Among other things, SC-UK works closely with the gatemen in Warawar in Northern Bahr-el-Ghazal, seeking to identify UAM and abductees among the arrivals. In early 2004, UNICEF in collaboration with SC-UK spent three days in the IDP camps in Khartoum, checking names on the list compiled by the Rift Valley Institute. As a result, the agency collected leads to some 1,000 abducted children and women. UNICEF has also mapped the Dinka IDP communities in the North (names, location, telephone numbers etc.), and recently proposed to CEWAC that key leaders be personally contacted and visited to enhance tracing efforts.

128. At a local level, Misserya Arabs and Dinkas established a local Peace Committee in 1991 based in Warawar in Northern Bahr-el-Ghazal³⁷. While the objective of the committee was to improve trade between the two ethnic groups, one of its initial conditions was the return of abducted women and children. In due course, members of the Peace Committee worked with imams, who went from village to village in Kordofan, raising awareness of the Qu’ran and its prohibitions against abductions. Eventually, these efforts paid off, as communities got engaged and returned a number of Dinka children.

129. The Warawar Peace Committee is today seen as a symbol of effective conflict resolution at the grass-root level between Northerners and Southerners. Local trade flourishes, religious and racial tolerance prevail. “We made peace between our people long before Naivasha”, said the Misserya leader, as his Dinka counterpart nodded in agreement. Most importantly, the Peace Committee has given meaning to that peace. Not merely by tolerating each other, but, above all, by reversing injustices.

130. Another group of abductees originates in Azuliland in Eastern Equatoria (straddling Northern Uganda). Reportedly, a total of 10,000 children, the majority Ugandans, have been abducted by the LRA throughout the years. Some children manage to escape LRA camps at the border to Juba, from where a UNICEF- GoS Task Force arranges for their transportation to the Soba Center in Khartoum. The Center, which is run by SC UK,

³⁷ An additional two Peace Committees were subsequently established in Northern Bahr-el-Ghazal: Manger Ater in Aweil North and Abin Dau in Twic, respectively.

oversees registration and documentation, prepares the child for family-reunification and liaises with IOM for transport back to Uganda.

131. Abductions in Upper Nile are mainly clan-related. Ongoing abductions by the Murle tribe from the Pibor area remains a cause of concern to many child rights actors. It is generally claimed that the abductions are related to fertility problems among the Murles. It is also argued (disputed by some) that the Murles are fierce warriors, who have always abducted women and children from the Dinka, Nuer and Shuluk tribes in Upper Nile and even Toposa tribes in East Equatoria.

132. UNICEF has played a major role in trying to address the Murle abductions. In 2000, the agency worked closely with the Commissioner of Pibor (current Governor of Jonglei), who personally instructed civil and military authorities as well as communities to cooperate in retrieving abducted children. In March 2004, UNICEF organized family reunification of five abducted Dinkas from Bor. However, according to the local Ministry of Social Welfare, over a hundred children remain abducted and more needs to be done: "Time is against them as they will forget their identity. We need to act now," one official of the ministry urged during an interview in Malakal.

133. Separation is also triggered by poverty, particularly among female-headed households in the towns. As their family/mother is unable to provide education and daily fare, children take to the streets in search of survival. There are today some 5,000 street children in Khartoum alone. Street children are prone to exploitation for cheap labor by the military and by drug-dealers (selling Cilicione, a drug with a similar effect to heroin). In the towns of Malakal and Wau, an increasing number of street children are resorting to local opium (*Bango*), alcohol or to sniffing glue.

134. UNICEF works closely with child rights organizations and the Ministry of Social Welfare to address the risks and problems faced by street children. While the Ministry of Social Welfare in the garrison towns is generally very committed, it lacks resources and capacity, as there is no national investment in child protection. In Khartoum, Child Rights Watch collaborates with UNICEF in monitoring street children, and conducting advocacy on their behalf. In Wau, Children of the World provides psychosocial support and works closely with the local authorities in providing education to street children, and juveniles in detention. Although peace may arrive soon, the problem of street children will remain a long-standing problem.

135. Furthermore, population movements cause separation. In view of the anticipated return/repatriation program, and given the lack of education in the South, there is a risk that displaced families within Sudan and in refugee camps across the border may opt to part and return in different phases, leaving behind their school-aged children (with or without caretakers) to complete their education.

136. There is today an increasing number of requests for tracing and family reunification (F/R) for unaccompanied minors (UAM), which remains a top-priority for UNICEF, SC-UK, and the ICRC. Family-tracing is in fact ICRC's biggest program in Sudan, with 150

volunteers around the country, collecting and passing on messages mainly for the purpose of family-reunification. ICRC works closely with UNICEF and SC-UK through cross-line tracing and reunification, which also includes a small number of Sudanese children abducted by the LRA in Equatoria. Similarly, UNHCR has a long-standing program on F/R in the refugee camps in countries bordering Sudan and collaborates with the ICRC in tracing and F/R of UAMs.

137. Separation is often the major cause of vulnerability for children, leading to loss of education, language and tribal identification. SC-UK, among others, implements several re-integration initiatives. One of these initiatives is the community-based Childrens' Groups (*Akoudmaths*) in Bahr-el-Ghazal and Upper Nile, which offers children a chance to reintegrate through traditional games, sports and recreation. The groups also provide a forum for children to share their experiences in discussions on peace and reconciliation.

138. On returning to their communities, getting children back to school has proven to be an essential component of reintegration and normalization. However, the lack of access to education and schools in the South - where only 12% of the schools have permanent structures and only 7% of the teachers are qualified - further compounds the problem.³⁸

Recommendations

- ***Engage more NGOs in grass-roots level tracing of separated children and women.*** International and national child rights agencies concur that the most effective way of identifying and tracing separated children takes place at the grass-root level. However, their efforts are constrained by manpower and capacity, and thus there is a need for more NGOs to engage in tracing and reintegration of separated children. Similarly, NGOs who have the institutional capacity and field presence need to engage in other areas of child protection, in order to meet the numerous protection problems faced by children.
- ***Strengthen efforts to trace abducted children in Upper Nile.*** While a lot of attention is given to the abductions in Bahr-el-Ghazal, it is felt among local actors on the ground that more needs to be done to resolve the Murle abductions in Upper Nile. To this end, UN and NGO actors present in Malakal can support UNICEF's efforts. Drawing from previous experiences, such support may include close collaboration with Murle authorities, local peace-talks, awareness raising, monitoring and grassroots tracing.

³⁸ United Nations Consolidated Inter-Agency Appeal for Sudan, 2003.

- ***Establish Temporary Shelters for young women and UAMs unable to trace their families/reintegrate on return.*** There is a need to establish facilities that can provide temporary accommodation to former abductees, whose relatives/communities cannot be traced/are unwilling to receive them. These temporary facilities should provide basic shelter and educational facilities, while efforts are continuously made to find a durable solution (F/R, economic opportunity or even return to the North).
- ***Support access to education as a durable solution.*** While family-reunification is the primary objective, it is not the exclusive solution for children who are separated, living on the streets or subjected to cheap labor. It is also important to ensure that children can access education and lay a foundation for self-reliance and reintegration into the society. This applies particularly to girls, whose education can be supported with the provision of transport, boarding schools and accelerated learning programs.

Gender-Based Violence (GBV)

139. Gender-based violence (GBV) is endemic in the North and the South, including domestic violence, forced marriage, rape and female genital mutilation (FMG). In the North, some 90% of women are subjected to FMG. It is anticipated that recently adopted laws will address these practices. Women abducted from the South, subjected to female genital mutilation in North, will most likely face difficulties to reintegrate and marry in the South, especially Dinka women. Another problem in the North, relates to women who, in the absence of any other income-generating activity, engage in illegal beer brewing. Unable to pay the high fines, these women (often female-headed households) end up imprisoned for months with their minor children.

140. In the South, women are particularly vulnerable to the effects of patriarchic traditions – a vulnerability that has been exacerbated by the war and poverty. The traditions of dowry have increasingly become a means of survival for impoverished families in need of livestock. The dowry contributes to early and forced marriages, which tend to make girls and women “hostages” of their marriages. Domestic violence has increased and become widespread due to a general war-mentality, poverty and financial difficulties. However, a girl or women living in an abusive marriage cannot escape her lot through divorce, as this would deplete her family of the livestock.

141. Moreover, early marriages prevent adequate education, depriving girls and women of an opportunity to become self-reliant. The higher the grades, the more drops-out of girls, who are expected to return to the confines of the home and household-shores. Only 7% of the teachers are women, which negatively impacts the enrollment of girls.³⁹ Furthermore, since girls and women shouldered additional responsibilities for their communities during the war, they have had no time for education, let alone for

³⁹ United Nations Consolidated Inter-Agency Appeal for Sudan, 2003.

engagement in politics and peace building. Traditionally perceived as property of the family, women are often excluded from decision-making in political, economic and social affairs in their communities. While there are today women officials within the SPLM/SSRC structure, it is believed that their positions are marginalized and they lack any substantive influence.

142. Furthermore, as a direct consequence of the war, sexual violence has become a major problem in the South. Following the Machakos protocol and the cessation of hostilities, the incidence of rape by the military has receded, as many commanders in both GoS/SAF and SPLA discipline their soldiers. However, sexual violence has by no means ceased, nor triggered any serious intervention on the part of the authorities. Sexual is common occurrence in rural areas, and there are still reports of IDP women searching for firewood or water in remote areas in the garrison towns being subjected to rape by individual soldiers. While rape and prostitution appear more prevalent in and around IDP camps, particularly in Juba, prostitution as a means of survival also occurs in Khartoum city.

143. Women and young girls do not report GBV for fear of repercussion and stigmatization. While isolated complaints have been submitted to the CPMT, most cases of GBV go unreported. This can partly be explained by the lack of counseling, referral system and mechanisms for accountability. In the absence of educated females, male professionals run most NGO health-clinics, and there is no access to gynecologists or health officials trained to handle clinical management of sexual violence.⁴⁰ An illustration is that of three IDP women in Wau, who, recently, reported rape by soldiers to the health facility in their camp. While the women received medical care, their complaints were ignored.⁴¹

144. A number of actors are currently addressing GBV in the South, among them UNICEF, UNFPA and the national NGO, the Bahr-el-Ghazal Women's Development Center (BWDC), which conducts paralegal training and provide legal advice and counseling to women, including those detained. However, efforts to address GBV are hampered by the fact there exist no laws reinforcing women's rights and very few social structures in place to assist women. Neither customary nor statutory laws address GBV, all while GoS has yet to ratify the Convention Against Forms of Discrimination Against Women (1978). Thus, the only protection mechanism available is that of family support.

145. A major priority would, therefore, be to take GBV beyond the family circle through established referral systems (health and judiciary) and make community sensitization a priority, or else women will not be able to access services. However, the community response should be carefully examined, not to endanger the security of, or alienate, affected women from their communities.

146. The situation for women in the South will pose difficult challenges to returnee women, especially refugee women, who have gained a new understanding and

⁴⁰ The ICRC hospital in Juba is staffed with a gynecologist.

⁴¹ Interviews with affected IDPs, January 2004.

appreciation of their rights. It will be imperative to take stock of their awareness and education, and empower them to contribute to transforming the role of women in their communities.

Recommendations:

- ***Strengthen the involvement of protection actors in addressing GBV.*** There is a need to address both the imminent threats to human security for women as well as a long-term capacity building. Protection actors should fill the existing protection gaps through monitoring and intervention, linking these activities to women's inclusion at community and regional level (including decision-making, training and education), rule of law, gender-sensitization and capacity building of the authorities and ratification of the Convention Against All Forms of Discrimination Against Women of 1978.
- ***Establish UNIFEM presence and programs in the field.*** UNIFEM needs to establish a presence in the field and support grass-roots programs that promote women's political inclusion, economic security and protection from gender-based violence. Given its experience of promoting women's and girls' rights through community-based organizations, UNIFEM possesses a wealth of knowledge and lesson-learned that can be applied to South Sudan. In the North, UNIFEM can play an instrumental role in collaborating with UNFPA to end harmful practices of Female Genital Mutilation (FMG).
- ***Prioritizing male and community involvement.*** Particular emphasis should be placed on forging collaborative partnerships with men and communities. This should entail engaging them in gender-sensitizing communities, promoting women's rights and strengthening protection from GBV.
- ***Build local capacity to conduct gender-sensitization.*** In the same vein, there is a need to build the capacity of a broad range of local actors to gender-sensitize the general public, community leaders, educational institutions, health facilities, the judiciary, the police, the military and governance structures. Indigenous women's groups, national NGOs and networks should be enabled to reach out and advance the rights of women, including receiving support to develop effective training modules on gender-sensitization and women's rights.
- ***Set up counseling and referral mechanisms in existing health-structures.*** The possibility of establishing counseling and referral systems within existing health programs should be explored, as should the deployment of mobile health units addressing GBV. Taking into account the need for confidentiality and the constraints connected to cultural sensitivity (stigmatization), counseling and referral should include community-sensitization and culturally sensitive approaches and venues for reporting and intervention with relevant authorities and referral systems (female interpreters, confidentially and discretion). In addition, support and training to should be provided to local organizations,

enabling them to develop a comprehensive and integrated approach to GBV.

- ***Gender-sensitize customary and statutory laws.*** Actors engaged in community-based structures and rule of law should focus particularly on gender-sensitizing customary and statutory laws (e.g. labor laws, civil law, criminal code), including the adoption/promulgation of laws that actively promote and protect women's rights as enshrined in CEDAW. (see also Section on Rule of Law).
- ***Establish an accountability structure for international and local staff.*** In order to ensure compliance with codes of conduct of staff serving humanitarian and development organizations, all staff should receive training in *Abuse and Exploitation* (A&E) and the protocol for reporting and investigating age-based, sexual and gender-based violence.

HIV/AIDS

147. Approximately 3% of the population in Sudan is reportedly infected by HIV/AIDS. It is estimated that there are some 400,000 – 600,000 incidences of HIV/AIDS in the South, although there are only 12,000 confirmed cases.⁴²

148. While current risks are mainly associated with the extensive practice of polygamy and GBV, it is feared that new population movements (disarmed soldiers, traders, and returnees) will increase the risks for infection.⁴³ It is generally assumed that the return of refugees from neighboring countries, particularly from Ethiopia, Kenya, Uganda and the DRC (where prevalence rates are higher) will raise the number of HIV/AIDS affected. However, this assumption is disputed by several agencies, who contend that refugees have been exposed to HIV/AIDS education in the camps, and thus are more aware of the risks than those who remained in Sudan.

149. As in many other countries (at least when HIV/AIDS initially became evident) there is a stigma attached to HIV/AIDS. Communities consider HIV/AIDS “a disease of Uganda”, and fear receiving infected returnees. “Put them up there”, said one village leader pointing his finger away from the village. The elderly are also afraid that awareness-raising will promote promiscuity, often paying little attention to the culture of polygamy whereby dozens of women can be infected by one man.

150. Awareness of HIV/AIDS as a disease is minimal and understanding of transmission even less so. The SRRC is currently considering mandatory screening of refugees from abroad, which further exacerbates the potential for systematic discrimination. Unless more players engage in raising the awareness on HIV/AIDS prior to the return of IDPs

⁴² GoS and WHO, Juba, Sudan Mirror, February 2004.

⁴³ According to a physician in Kajo Keji interviewed by UNHCR, the growing presence of demobilized soldiers has increased the number of rape incidents in the area. UNHCR field report, *Return of Refugee Women to South Sudan*, 5 March, 2003.

and refugees, there is a great risk that those infected with HIV/AIDS will be stigmatized by their communities and discriminated against by the authorities.

151. In February 2004, a center for voluntary counseling and testing (VCT) was inaugurated in Juba. Supported by the GoS Ministry of Health, UNAIDS and WHO, the VCT center offers testing (10\$), information on HIV/AIDS and referral to local health clinics and support groups.

152. At grass-roots level, several UN actors and NGOs conduct awareness programs in the South, such as UNICEF and SC- US, while UNHCR and ARC have long-standing programs in refugee camps across the border. However, there is minimal attention being paid to HIV/AIDS in the IDP camps inside Sudan.

153. In partnership with UNAIDS, IRC and ARC have focused on HIV/AIDS in Rumbek and and Yei since 2002. Conducting awareness raising, addressing behavior change and providing voluntary counseling, the project has targeted community-based organizations and civil society, including women and youth, as well as civil and military authorities.

154. The HIV/AIDS campaign in Rumbek was preceded by consultations and a sensitization campaign. Prior to addressing the target groups, contact was made with the military commander of Rumbek, who issued a letter of endorsement that was used to introduce the project at community-level. This was followed by a one-month extensive advertisement at village level and through peer education. As a result, target groups were more inclined to engage in subsequent surveys, workshops and voluntary testing for STD (Sexually Transmitted Diseases), including HIV/AIDS.

Recommendations:

- ***Ensure that HIV/AIDS cuts across all programming.*** Interventions should not be restricted to the health sector, but should become an integral component of all sectors that engage groups-at-risk and policy makers. This includes, among others, rule of law, protection, education, governance, confidence building and reconciliation.
- ***Avoid singling out displaced in general, and refugees in particular, as the principal threat to the spread of HIV/AIDS.*** In order to prevent stigmatization and discriminatory practices, humanitarian and development actors conducting awareness raising should avoid attributing HIV/AIDS to particular groups.
- ***Replicate HIV/AIDS education in IDP camps.*** HIV/AIDS training and awareness-raising conducted by NGOs and UNHCR in refugee camps across the border, should be replicated in IDP camps inside Sudan.
- ***Sensitize communities to HIV/AIDS.*** Given the misinformation and the reluctance among traditional leaders and elderly to promote awareness raising, it

is vital to sensitize communities and tribal leaders through community participation. Efforts should be made to reach out to communities located in remote areas (deployment of mobile awareness-raising units).

- ***Sensitize stakeholders prior to assessments, counseling or provision of health services.*** Using the model in Rumbek, surveys, awareness raising and medical services should be preceded by a sensitization campaign. This should include close collaboration with the local authorities (obtaining their explicit endorsement) and advertisement among the general public. The Rumbek project should be expanded to Bahr-el-Ghazal, Equatoria and Upper Nile.
- ***Encourage voluntary counseling and testing, and strengthen accessibility to treatment.*** While sensitization and awareness raising are essential, there is also a need to move beyond prevention and ensure access to VCT and treatment of HIV/AIDS.

Land and Property

155. Access to resources is at the root of most protection problems in Sudan. However, while there is a consensus that the lack of water in certain areas might provoke conflict in case of large return movements, the opinion is divided as to whether land and property will generate violent disputes in the event of massive return – as has been the case in other post-conflict situations.

156. Generally, land in the rural areas is a right of the community, and seen as a resource issue. Land rights are derived from ancestors, collectively owned by the community/tribe. There exists no formal registration or documented ownership, and the right to land is safeguarded by a respect for customary law.

157. At the local level in the South, conflicts related to resources in the form of grazing land are long-standing occurrences, which have been rendered more violent as a result of the war and a consequent increase in the flow of small arms. Previously, elders of agricultural and pastoralist tribes would conclude an agreement on the seasonal use of grazing-land, which also expected young herdsmen to keep the cattle away from the crops. Not only has the war weakened local agreements, but in case of dispute, the aggrieved resort to guns, rather than spears, causing much larger numbers of casualties.

158. Furthermore, although land is abundant in the South, some areas are more fertile than others, such as East and West Equatoria. IDPs who have settled on fertile land may ignore customary law. A potential illustration of this is the oft-quoted example of Bor Dinkas in Eastern Equatoria. For the past twenty years, some 100,000 Bor Dinka IDPs have occupied land that belongs to refugees in Kenya and Uganda. The return of the

refugees might require the return or relocation of the Bor Dinka IDPs, and this could become a cause for friction.⁴⁴

159. An added dimension to the issue of land relates to the displacements and forced relocations that have taken place around the oil fields in Unity State and Western Upper Nile. With the continued extraction of oil in the region, it seems highly unlikely that they will be able to return in the near future, nor is it clear whether they will receive adequate compensation.⁴⁵

160. In the urban areas land and property are increasingly viewed as a legal right based on individual claims and documentation. Many foresee potential problems in the towns, where the authorities have allocated or leased plots to traders, prominent individuals, or others who can afford to lease land and property. While the authorities assure that they will comply with customary law as relates to land in the countryside, ongoing practices in the towns indicate that returnees must compensate for the reconstruction made by tenants before being able to re-possess their land or property in the town.

161. Presently, there are reports of pending or unsatisfactorily resolved cases on ownership in towns like Juba and Wau. In most instances, the legitimate owners of property have to go through lengthy and time-consuming processes to establish their rights, only to be compensated with unattractive plots in the countryside. These early cases indicate that there will be a need to establish a fair, judiciary resolution-mechanisms and formal registration of ownership in towns.⁴⁶

162. Another factor that might increase tension related to land in the urban areas is the arrival of urbanized returnees, particularly young adults among returning populations, who will try to settle in the towns. Although the definition of a 'town' in the South is a questionable one given the lack of infrastructure, the arrival of youth will inevitably trigger a demand-supply gap that can contribute to tensions, if not also criminality.

163. With a few exceptions, women do not enjoy the right to own property under customary law. Women in general, and female-headed households in particular (the majority of women lost their husband during the war), might face particular problems in reclaiming land or property belonging to the husband or other male family members.

164. Given the opposing views as regards future land-disputes (especially in the countryside) it is difficult to predict to what extent land and property will become a major issue

⁴⁴ A WFP officer recalled an interview with the IDPs from Bor, in which they had expressed concerns regarding a possible return. These related to security, modes of return, the difficulty of moving far with cattle and the fear of starting anew.

⁴⁵ Agreement on Wealth Sharing During the Pre-Interim and Interim Period (Naivasha, 7 January, 2004), Article 2.6 and 2.7 envisages the establishment of a National Land Commission and a Southern Sudan Land Commission, respectively. Although these mechanisms are mainly intended to resolve disputes on oil and other natural resources between the parties, the commissions provide a potential channel for raising land and property rights of displaced and returnees.

⁴⁶ Some interviewees believe that property disputes in garrison towns will be automatically resolved with the handover of the garrison towns.

until a more substantial return movement takes place. However, whatever the outcome, the Southerners will be reluctant to subscribe to property laws, if these contravene customary law. As they see it, the only problem at hand is the need to identify an appropriate resolution mechanism.

165. Drawing on its experience of land and property restitution in other post-conflict situations, UNHCR is in the early planning stage of conducting a comprehensive survey of legal/customary frameworks on land ownership in Southern Sudan. In close collaboration with UNHCR, and through the establishment of an office in Rumbek and mobile teams, the NRC will focus specifically on providing legal aid with respect to land and property in the South.

Recommendations:

- ***Conduct a rapid assessment on the link between return movements and land.***
There is a need to develop an information management tool that maps areas, indicating the types of property issues at hand. This should be followed by a field assessment of populations currently in areas of return, along with an assessment in Khartoum and other IDP camps of those who want to return to those areas. Such assessment will also need to examine responses to situations where IDPs currently occupy land in areas of return (e.g. Bor Dinka in Eastern Equatoria) as well as those displaced from the oil field regions.
- ***Ensure that legal aid centers in urban areas are equipped to deal with multiple issues related to land and property.*** While legal aid centers should not limit their services to land and property issues, it will be essential to include staff who are technically skilled in land and property-restitution, rule of law and protection, and who can follow up on individual cases, monitor emerging laws, interact with local authorities and report on the evolving situation on the ground.
- ***Conduct a comprehensive survey on land and property issues in the South.*** The planned UNHCR study on return movements, land ownership and property-restitution should commence as soon as possible, as it may help shed light on many of the questions related to land that are currently the subject of speculation. As such, the study will need to be all-inclusive and fully supported by the UN and NGO community in the North and the South.

Registration and Documentation

166. Sudanese citizens are supposedly bearers of an ID-card. However, the lack of personal documentation is large-scale phenomena in the South as well as among IDPs in the North. While basic documentation, including ID-cards, birth certificates or ownership

of property, is not issued in the South, the majority of IDPs in the North lack access to registration and documentation. Of the IDPs in Khartoum:⁴⁷

- 36% of the IDPs have no documentation
- 39% among newborn IDPs have no birth certificate
- 37% of the IDPs have birth certificate
- 8 % of the IDPs have ID cards

167. NRC is currently considering providing support to the issuance of ID cards, and might even extend its services to property documentation. IRC plans to assist the local authorities in issuing birth certificates for newborns through IRC supported health clinics in the South.

168. At present, there is no institutionalized registration of IDPs or returnees for the purpose of assistance or protection. Returnees arriving from the North and IDPs arriving in garrison towns as a result of ongoing fighting (e.g. Malakal) are registered on a very irregular basis, if at all. Although HAC and the SPLM/SRRC oversee some registration of IDPs and returnees, they lack adequate training and capacity, and/or tend to inflate the figures. Thus, there is a need for more systematic monitoring of movements, including registration.

169. Furthermore, registration of IDPs and of Sudanese refugees abroad must be coordinated between the relevant agencies, such as UNHCR, IOM etc. in order to ensure that all data collected is compatible. Any registration must be guided by the fundamental principle of confidentiality. Due consideration should be given to using the registration process as effectively as possible, issuing the displaced with relevant and necessary documents that they may require to enjoy unimpeded access to all services, which are provided by the authorities to citizens on a par with all other nationals.

170. It is now anticipated that the Joint Operation Centers will develop registration forms and assist the authorities in establishing a more institutionalized registration, including the creation of transition centers, where returnees will be registered upon arrival. In addition, the IOM information campaign will also include an assessment of the needs and procedures for registration at the place of departure/displacement.

Recommendations:

- ***Provide support to institute basic documentation.*** Actors involved in civil administration, education, health-care and property issues should collaborate with the authorities in establishing procedures for personal documentation (ID cards, educational diplomas, birth-certificates and ownership).

⁴⁷ IOM/UNDP, February 2003. Global IDP Database. www.idpproject.org

- ***Establish institutionalized, systematic registration of departing and arriving returnees as well as new IDPs.*** Registration is a critical protection device intended to improve security, access to services and freedom of movement. All refugees and IDPs should be registered on an individual basis; the authorities, UNHCR, IOM, the Joint Operations Center and other relevant actors should be encouraged to collaborate closely to safeguard the quality and comparability of the data collected. UNHCR and IOM should provide the necessary technical support and expertise to ensure a well planned and comprehensive registration process.

Confidence Building and Reconciliation

171. While the peace-talks have contributed to building a minimum degree of confidence and political reconciliation between the parties, the lack of information and communication between North and South has created barriers between Sudanese people – both *between* Southerners and Northerners, and *amongst* Southerners.

172. Traumatized by decades of war and deprivation, Southerners are deeply resentful of the North, and tend to categorically reject anything that is associated with Northern culture, language and people. Given the deep grievances that the Southerners hold against the government in the North, it will be a tremendous challenge to transcend the barriers between South and North and remove generalizations.

173. The handover of the garrison towns to SPLM control will present a unique array of protection related problems, owing to long-standing militarization that has subdued segments of the population, while another has joined the GoS establishment. The different groups, the increasing populations and the political dynamics of the handover will most likely not pass without serious tensions.

174. As ex-GoS soldiers and HAC officials return home, there might be resentment among communities, especially if those returning have been (or are perceived to have been) involved in the killing of relatives. GoS appointed tribal leaders may not be recognized by their communities on their return, while women returning with children by Northerners may face stigmatization.

175. Some argue that there is a significant potential for tensions as result of disparity between returnees and “stayees”, particularly when refugees return with increased prosperity, better health and higher expectations. However, others question this assumption. Returnees may also be seen as an asset to their communities, bringing with them not only commodities that can be shared with their kin, but also educational skills that can be utilized for the benefit of the community. Observations on the ground indicate that this might in fact be the case in the majority of communities. “We want our people home”, is an expression often uttered by Southerners, locals and authorities alike.

176. However, there is also a risk that, when the initial euphoria of homecoming has abated, a sense of betrayal or abandonment may surface. Moreover, problems of cultural disassociation are expected to increase owing to the large number of adolescents who are less likely to respect and assimilate into traditional ways, or children returning to the South who may only speak Arabic. It will be particularly difficult for these groups, who will have to suppress their past in order to adjust. It is also an indication of how wide is the gap between the North and the South, in that many young returnees will have to abandon their language and cultural habits in order to be fully accepted in the South. These trends must not be ignored and left to fester, but should be addressed through peace building programs that encourage inter-faith, multi-ethnic and multi-lingual co-existence.

177. Within the South, it is generally said that the reconciliation process has so far been a shallow assimilation process rather than a deep reconciliation process. Although major Southern political actors are today united in Naivasha, low-intensity fighting still occurs between militia groups supported by GoS and SPLM/A. While tribal conflict has turned more deadly due to small arms and an erosion of traditional conflict resolution, traditional kinship has weakened as a result of the war.

178. Yet, there is a strong sense of solidarity among the majority of Southerners, and there exists a commonality upon which reconciliation and peaceful co-existence can be pursued. While the war has caused a more violent society, it has also produced a resourcefulness and profound awareness of peace. “When you suffer all the time, you are forced to think deeply and be creative in finding solutions”, said one Southerner whose losses were countless. Thus, there is both capacity and will among ordinary people to promote reconciliation within the South and, to a certain degree, between Southerners and Northerners.

179. During consultations in the field, a number of confidence-building approaches were suggested by those interviewed. While independent media (radio and newspaper) is seen to play an important role in awareness-raising, the general opinion is that reconciliation will be more effective if people are brought together, face to face. Pending the peace agreement and ease in restrictions on freedom of movement, several interviewees proposed cross-border visits between different tribal areas in the South, and between GoS and SPLM/A controlled areas. Said one interlocutor: “Before they can trust an abstract vision of peace, people need to know where the road leads.” Generally, discussions on reconciliation and peace building revolve around spiritual and ethical values, dialogues and inter-active forums that allow people to share their grievances and hopes.

180. Sudanese people of all three major faiths (Animists, Christians and Muslims) tend to be deeply devoted to core-messages of peace, tolerance and forgiveness, and less inclined to dogma. It is said that some 80% of all Southerners attend church every Sunday, whether they are Animists or Christians. In the South, the church is considered the strongest actor in reconciliation. Its network is wider than that of civil society, and its influence at grass-roots level is stronger than that of SPLM/A.

181. The New Sudan Council of Churches (NSCC) was formed in the early 1990s and has been active in grass-roots peace initiatives since 1997. NSCC is most known for its People-to-Peace Initiatives, whereby the church works with civil society and authorities to promote reconciliation and help achieve peace agreement between Southern tribes and communities - the Wunlit Agreement and the Liliir Conference, being the most well known ones.⁴⁸ These efforts are also seen as building blocks in restoring traditional conflict resolution mechanisms. Although the degree of success differs, the People-to-Peace initiative is widely supported by both national and international stakeholders.⁴⁹

182. Perhaps even more remarkable are the efforts by religious institutions in reconciling Northerners and Southerners in the garrison towns. In early March 2004, the Sudan Council of Churches (SCC) together with Muslim leaders and scholars organized an interfaith conference in Malakal. Reaching out to a large segment of the society, the conference was attended by civil society, university students and local authorities, including military and security officials, while the HAC administration contributed S.D. 10,000 to the conference. In promoting tolerance between the two faiths and people, the Southerner facilitator from Khartoum, who was well-versed in both the Bible and the Qu'ran, had skillfully shed light on the interrelation between ignorance and intolerance. "After that, no one wanted to appear ignorant," one participant explained, "instead we all felt compelled to project tolerance, and that set the tone of the conference."

183. While religious institutions and village leaders remain central to conflict resolution and reconciliation, youth and women can and should play a major role. Bahr-el-Ghazal Youth and Development Agency (BYDA) is a principal youth actor that trains communities in resolving local disputes and intra-tribe conflicts. BYDA's philosophy is to liberate people from the recipient- and dependency- syndrome. "The most effective way of assisting people to resolve conflict is to build their capacity to conquer their own fears and gain inner freedom. People might not know how to read and write, but I see in them powerful minds," the founder of BYDA explained with a contagious conviction.

184. Closely linked to BAYDA, is the Bahr-el-Ghazal Women Development Center (BWDC). BWDC provides not only legal aid to women, but also engages in conflict resolution to promote women's position within communities and marriages. Adopting a culturally sensitive approach, they conduct negotiations with tribal leaders and elderly as a means of improving the status of women in customary practices.

185. A number of international actors address women and youth in peace building, including UNDP, UNICEF and NGOs. IRC has conducted youth peace building programs in some garrison towns, while the Sudan Peace Fund (a consortium of NGOs)

⁴⁸ The Wunlit Agreement was concluded between six different Dinka and Nuer tribes from the East Bank of the Nile in 1999. The Leer Peace Conference was convened in May 2000 and attended by a number of tribes from Upper Nile.

⁴⁹ There exists a tension between the SPLM/SRRC and the NSCC, the former arguing that the church has become "too independent".

seeks to promote women as peacemakers through women's dialogues at grass-root level in SPLM/A areas.⁵⁰

186. At the regional level, JMC and the Nuba Mountains Pact are generally seen as having played significant role in confidence building. The return movement to the Nuba Mountains following the 2002 ceasefire is considered a successful model because it rests on a political framework, a ceasefire that is verified by JMC and the establishment of the Nuba Mountains Pact (NMPACT), a consortium of humanitarian and development NGOs and UN actors.^{51 52} In contrast, while IDPs were assisted in returning to Abyei in 2003, the overwhelming majority did not integrate due to the absence of basic services and insecurity, and, in fact, they returned to Khartoum. Thus, confidence building and reconciliation, ultimately, require a multi-sectoral approach, which rests on a political framework and security guarantees.

187. In the final analysis, however, the root-causes of the war and the continued instability are largely a national and political problem that needs to be addressed. Just as confidence building cannot be done in isolation, peace building programs must not be limited to community members at grass-root level, but must also extend to national political actors. The gap between the North and South still remains the widest. It is also the biggest threat to lasting peace.

Recommendations:

- ***Engage religious institutions and figures in reconciliation programs.*** Bearing in mind the central role of religion in Sudanese life, indigenous religious figures possess the necessary public platform and trust at grassroots-level to inspire reconciliation and restore traditional conflict resolution mechanisms. In order to ensure that religion is not being abused for political objectives, international support should target projects aimed at building inter-faith, inter-tribal, multi-cultural and multi-lingual tolerance. GoS/HAC, SPLM/SRRC, military and security forces should also be actively engaged.

⁵⁰ The Sudan Peace Fund has also conducted a comprehensive conflict and mapping exercise in Southern Sudan, aimed identifying components for a wider peace building framework, *Guiding Programme for Conflict Transformation and Grassroots Peace Building in Southern Sudan, for the Sudan Peace Fund Program*, (draft #6), October 31, 2003.

⁵¹ While the general view is that the Nuba Mountains is a success story, one observer with in-depth experience of the area expressed doubt as to what extent the root-causes had been addressed in the Nuba Mountains. He argued that the balance of power and resources allocation had not changed as those living in the SPLA-controlled mountains still remained a disadvantaged group.

⁵² See also, UNDP/IOM Socio-Economic Survey for the Voluntary Return of IDPs, October 2003; and, OCHA Rapid Needs Assessment of the Nuba Mountains Region, January 2004.

- ***Expand peace-building programs that target women and youth.*** Since the vast majority of South Sudanese women are rural, it will be particularly important to support women's inclusion in decision-making and conflict resolution at community-level. Urban women (South and North) should be supported in building networks, promote cross-border dialogues, and linking with international organizations and peace building initiatives.
- ***Strengthen the multi-sectoral approach to confidence building.*** Access to basic services and socio-economic development opportunities are major components of a peaceful society. Conversely, lack of the same will trigger inter-tribal fighting, crime and will threaten the rule of law. Thus, it is essential to ensure that access to land, water points, education, health and employment are never considered anything less than a top priority. A close coordination between assistance, development, and human rights/protection actors is fundamental in promoting peace building.
- ***Increase conflict resolution and reconciliation in the garrison towns.*** The garrison towns are hotspots for crisis that need to be addressed before the interim period commences. They also present an opportunity for reconciliation between Northerners and Southerners. Conflict resolution and peace building initiatives in the garrison towns will become more effective and sustainable if military and security authorities are engaged and sensitized, along with parallel efforts at national level.
- ***Increase conflict resolution and peace building programs in the North.*** The conditions in the South cannot be seen in isolation. Nor can lasting peace be pursued without including the North. As one international official with experience of working in both North and South put it: "The best way to inspire change of attitude in the North is not to neglect it, but rather to work on 'togetherness' and encourage an understanding of the fears and aspirations held by each adversary."

E. TOWARDS A COMMON APPROACH

Primary Actors

188. Owing to the vast size of Sudan and the multiple layers of protection problems, humanitarian, development and political actors will need to adopt an integrated approach composed of mutually reinforcing planning and implementation at all levels. This will require a synergy between humanitarian, development, and political objectives, of which all need to connect to a larger political vision for Sudan.

189. Most protection problems in Sudan relate to the governing structures in the North and the South. Only so much work can be done at the community level. The political dimension of human security requires a broader approach to protection, whereby capacity-building programs empower national institutions and authorities to shoulder their responsibilities. Without the serious engagement of the GoS and the SPLM/A in establishing a social contract with the people of Sudan, all other efforts will be undermined. The UN's authority to influence the GoS and the SPLM/A will be significantly strengthened with the deployment of a UN Mission and a Special Representative of the Secretary-General (SRSG).

190. OCHA is principally responsible for the coordination of protection and assistance to IDPs, while several operational UN agencies possess expertise in specific sectors, such as UNHCR (refugees, IDPs, returnees); UNICEF (child protection); and, UNDP (rule of law). While UNHCHR is central to the promotion of international human rights law, the ICRC remains the guardian of international humanitarian law. Moreover, a number of international and national NGOs, such as Christian Aid (rule of law), Save the Children-UK (child protection), SSLS (rule of law) and PLACE (rule of law) play a major protection role in the Sudan operation.

191. An additional number of actors have been present on the ground for decades and are thoroughly familiar with the political, economic and social dynamics that impact human security in Sudan. Although not considered traditional protection actors, the majority of those interviewed in connection with this study are involved with protection-related activities (for complete list see Annex II).

192. Given the need for a strong injection of qualified protection staff in the field, all aid actors should seek to strengthen or establish a protection capacity in their overall program through recruitment and training. Protection training should be simple and practical, and should revolve around what people need to know to respond to the immediate realities on the ground, including monitoring, reporting and intervention. At the same time, there is also a need to encourage actors to seek guidance from international standards and principles designed to promote protection, including international humanitarian, human rights and refugee law, and the IDP Guiding Principles.⁵³

⁵³ The Steering Committee on Protection Training (chaired by UNHCR) is currently working closely with NRC and IRC in preparing for a more systematic program on protection training. Through a coordinated and collaborative approach, the training will draw on modules developed by different actors (UNHCR,

Coordination

193. Although protection needs in the South might differ from protection needs in the North, the overall North - South protection challenges are inextricably linked through the return and reintegration operation. The following are major coordination mechanisms, that can and should strengthen these links:

Mechanisms and Objectives

Sustainable Returns Team	Coordinate return and reintegration
Protection Sectoral Group	Coordinate input to UN Emergency Return Plan
Steering Committee on Protection Training (KHT)	Coordinate protection training
Working Group on Protection (NBI)	Coordinate child protection
Working Group on Disarmament, Demobilization and Reintegration	Coordinate the DDR process
NGO Steering Committee on Advocacy	Coordinate analysis and advocacy

194. In strengthening coordination between North and South, gaps and duplications of ongoing efforts in the field should be aligned with existing coordination mechanisms. Organizations that are involved with protection-related activities should designate a Protection Focal Point that can link up with the Sustainable Returns Team, and protection-oriented officers within the OCHA Area Coordinators' network.⁵⁴

195. These mechanisms will need to be supported by a stronger institutionalized and operational expertise on protection - particularly in view of displacement and return movements - through an officially appointed Resource/Support Agency. The principal role will be to forge North and South protection actors together and operationalize protection.

196. This will also entail supporting and strengthening existing coordination and operational mechanisms and exercises, such as the HC/RC, OCHA, the Sustainable Returns Team, the Area Coordinator's network and the JAM, as well as the forthcoming UN Mission, in addressing the specific protection needs related to the return and reintegration program. The terms of reference could include the following:

- Agree on a one-voice policy within the UNCT, including NGOs;
- Establish benchmarks for conditions conducive to return;
- Develop a field-based implementation plan based on a set of protection principles and activities;

NCR, UNICEF, IOM), and will be offered to national and international stakeholders in both North and South.

⁵⁴ OCHA is in the process of strengthening its capacity by fielding Humanitarian Affairs/Coordination Officers with protection expertise.

- Conduct assessments and in-depth analysis;
- Exchange information on protection across the North and the South;
- Oversee information management: keep files of reports, allegations, complaints;
- Provide expertise input to protection-related activities, including linking with other sectors;
- Oversee protection training;
- Conduct advocacy and dissemination.

197. While recognizing the added value of all actors involved in protection, it has been suggested by the HC/RC and OCHA that UNHCR be appointed as the Resource/Support Agency, given its in-depth expertise in protection and long-standing experience of population movements, including IDP return. UNHCR has an unparalleled institutional capacity and the human resources required to establish an adequate field presence, provide operational support and offer technical advice on the return and reintegration of IDPs.

198. Furthermore, UNHCR's multi-sectoral capacity and 4Rs Framework will enhance stronger protection linkages to major sectors and non-protection actors. Since UNHCR has built a credibility of supporting NGOs in promoting protection, both at policy and at field-level, the agency will be well placed to strengthen not only inter-action and information sharing between the UNCT and NGOs, but also to ensure that NGOs are involved at the policy-making level.

199. The earlier the establishment of a common structure, institutional commitment and collaborative partnership among NGO and UN actors, the more likely it is that the current actors on the ground will be in a credible position to support and derive support from the forthcoming UN Mission. By establishing a common approach prior to the deployment, the lessons learnt and capacities developed can be transmitted in helping to develop the final mandate of the UN Mission as well as ensuring that actors outside the UN Mission will also be included in a broad-based approach to protection. However, that the UN Mission should include a strong protection component in its mandate should be beyond question.

Summary Recommendations

Repatriation and Return

- Increase the presence of international staff in the field and in IDP camps
- Monitor the push-and-pull factors that may impact the return process
- Assess the options for local integration in the North
- Establish benchmarks conducive to return/repatriation.
- Conduct multi-sectoral information campaigns
- Combine information campaigns with protection monitoring
- Consider registering IDPs in location of displacement/departure
- Review options for transport to displaced during phase of organized return

- Ensure safe passage along return routes through deployment of UN military observers, UN agencies, international and national NGOs (consortium).
- Examine how existing coordination mechanisms can most effectively support operational protection actors, and consider appointing a support/resource agency on protection.
- Support the capacity of authorities to receive returnees
- Engage receiving communities in the return process
- Establish a legal framework for the return of IDPs/ ‘Tripartite Agreement’
- Closely monitor the establishment and management of transition centers
- Invest in urban services

Security, Military and DDR

- Lobby for a UN Mission that has a clear mandate, structure and resources to protect civilians and build the rule of law
- Establish an NGO/UN consortium in Upper Nile
- Disseminate information on peace-agreement
- Advocate International Humanitarian Law with regular forces and militia
- Ensure that a general amnesty law is in place prior to organized return
- Examine conditions and appropriate means for establishing mechanisms on accountability
- Ensure that demobilization and reintegration at community-level rests on national ownership and accountability

Rule of Law

- Deploy international staff with protection experience to fill the gap during a transitional period
- Conduct protection-oriented human rights capacity-building followed up by international monitoring
- Connect community-based approaches to established civil and judiciary structures
- Align customary law with basic international standards through projects implemented by national counterparts/NGOs
- Incorporate international standards in statutory laws (engaging Islamic scholars in the North)
- Ensure inclusion of women and child rights organizations in legal reform
- Conduct paralegal training and refresher courses for the judiciary followed by international oversight
- Build an operational and impartial police-force
- Employ alternative ways of communicating human rights

Landmines, UXOs and De-mining

- Strengthen coordination and information-sharing on UXOs and mines
- Include UNMAS and UNICEF MRE training in all programs

- Ensure that all returnees receive mine risk awareness training

Separation, Tracing and Family-Reunification

- Engage more NGOs in grass-roots tracing of separated children and women
- Strengthen efforts to trace abducted children in Upper Nile
- Establish Temporary Shelters for young women and UAMs unable to trace their families/reintegrate on return
- Support access to education as a durable solution

Gender-Based Violence

- Strengthen the involvement of protection actors in addressing GBV
- Establish UNIFEM presence and programs in the field
- Prioritizing male and community involvement
- Build local capacity to conduct gender-sensitization
- Set up counseling and referral mechanisms in existing health-structures
- Gender-sensitize customary and statutory laws
- Establish an accountability structure for international and local staff

HIV/AIDS

- Ensure that HIV/AIDS cuts across all programming
- Avoid singling out displaced in general, and refugees in particular, as the principal threat to the spread of AIDS/HIV
- Replicate HIV/AIDS education in IDP camps
- Sensitize communities to HIV/AIDS through participation
- Sensitize stakeholders prior to assessment, counseling or provision of health services
- Encourage voluntary counseling and testing, and strengthen accessibility to treatment

Land and Property

- Undertake a rapid assessment on the link between return movements and land
- Ensure that legal aid centers in urban areas are equipped to deal with multiple issues related to land and property
- Conduct a comprehensive survey on land and property issues in the South

Registration and Documentation

- Provide support to institute basic documentation
- Establish institutionalized and systematic registration of departing and arriving returnees as well as new IDPs

Confidence Building and Reconciliation

- Engage religious institutions and figures in reconciliation programs
- Expand peace-building programs that target women and youth
- Strengthen the multi-sectoral approach to protection and confidence building
- Increase conflict resolution and reconciliation in the garrisons towns
- Increase conflict resolution and peace building programs at national level in the North

Next Steps

IRC should organize a brainstorming for the key sponsors of the study with major protection actors in North and South Sudan, in May. The objective of the meeting should be to discuss the findings of the report, obtain a commitment on the establishment of a North-South coordination mechanism, agree on a work plan and identify funding sources for implementation.

ANNEX I. PRINCIPLES

Repatriation

200. Governments, UN agencies and NGOs play an instrumental role in voluntary repatriation either through *promotion* or *facilitation*. The specific involvement of these actors depends on the mode of return, which can be either *organized* or *spontaneous*.

Promotion of return

201. This involves wide-ranging measures and advocacy, actively encouraging return of refugees/IDPs. Promotion of repatriation requires a careful assessment of the situation, showing that the conditions of "safety and dignity" can be met. In other words, an objective assessment must indicate that it is safe for most refugees/IDPs to return, and that such returns have good prospects of being durable.

Facilitation of return

Return can be facilitated when refugees/IDPs indicate a strong desire to return voluntarily and/or have begun to do so on their own initiative – although conditions on the ground are not considered safe for return. The objective of facilitated return is to have a positive impact on the safety of the returnees. This includes dissemination of objective information, monitoring in the place of origin and, if required, limited assistance.

Organized return

202. Organized return involves means of transport provided by the Government, an international organization, NGOs or any other interested party (other than the refugees/IDPs themselves). Organized return is often linked to other types of assistance, such as repatriation/return kits.

Spontaneous return

203. Spontaneous returns are at hand when refugees/IDPs return by their own means (e.g. when conditions are not conducive to *organized* return). Spontaneous returnees can be assisted at the destination. In principle, there should be no difference between organized and spontaneous returnees as regards treatment and access to assistance after return.

204. Voluntary repatriation is the preferred durable solution. The primary objective of a return operation is to enable the displaced to return in dignity and safety. As such, protection must remain central to the forthcoming program on return/repatriation, reintegration, rehabilitation and reconstruction.

Protection

205. Protection is normally associated with the work of the ICRC and UNHCR – the two traditional protection actors in the field of humanitarian work. However, over the past decade, an increasing number of UN agencies and departments as well as NGOs have adopted a rights-oriented framework.⁵⁵ As more players have become involved with protection-related activities, the definition of “protection” has become a subject of debate and discussion. In response to this, ICRC conducted a series of workshops on protection-related policies and activities that spanned over a period of four years, from 1996 to 2000, and which culminated in a consensus on the concept of protection, namely:⁵⁶

“The concept of protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e. human rights, humanitarian and refugee law. Human rights and humanitarian actors should conduct these activities impartially and not on the basis of race, national or ethnic origin, language, gender, etc.)”.

206. The following bodies of law make up the legal framework for protection:

(a) *International Humanitarian Law* was conceived and developed to limit the suffering of civilians (and other persons not engaged in combat) in armed conflict. It is formulated as a series of duties aimed at regulating the behavior of combatants in their relation to “protected persons”, including the civilian population, and it permits certain military acts provided that they do not inflict unnecessary harm. Modern IHL principally refers to the four Geneva Conventions of 1949 and the two Additional Protocols of 1977.

(b) *International Human Rights Law* is formulated as a set of rights and freedoms inherent in human nature, which were proclaimed universal standards in the United Nations Universal Declaration of Human Rights in 1948. The declaration was later crystallized into two legally binding covenants: the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, both of 1966. A number of conventions and declarations have been developed to specifically address certain needs and targeted groups, such as the Convention Against All forms of Discrimination Against Women of 1978 and the Convention on the Rights of the Child of 1989.

(c) *International Refugee Law* provides a legal framework for international protection of refugees. The central instruments are the Convention Relating to the Status of Refugees of 1951 and the Additional Protocol of 1967. The 1951 Convention enshrines the internationally recognized general definition of a “refugee” and spells out refugees’

⁵⁵ The UN Secretary-General’s Reform Program of 1997 called on major UN departments and agencies to integrate human rights in their activities.

⁵⁶ The conclusions of these workshops were published by the ICRC in *Strengthening Protection in War - a search for professional standards: summary of discussions among human rights and humanitarian organizations* (May 2000).

rights, including the right not to be forcibly returned to the territory from where the refugee has fled (non-refoulement), as well as rights relating to work, housing and education, among others.

(d) *IDP Guiding Principles* are based on existing international humanitarian and human rights law, also drawing analogously on international refugee law. The objective of the principles is to reaffirm the application of existing international law on internally displaced persons, and to guide governments, humanitarian and development agencies in providing assistance and protection to internally displaced persons.

207. In addition, a number of *regional instruments* can be invoked in promoting the protection of civilians affected by armed conflict and displacement, such as the OAU Convention Governing the Specific Aspects for Refugee Problems in Africa of 1969.⁵⁷

208. Finally, *the United Nations Charter of 1945* is increasingly used as a legal and political tool for the protection of civilians. The Charter reaffirms every Member Nation's responsibility to promote human rights and mandates the Security Council to intervene where 'international peace and security' is at threat, which often implies high-intensity conflicts and the direct targeting of civilians.^{58 59}

209. On the basis of the legal framework, the ICRC workshops defined a protection activity as:

“Any activity – consistent with the above-mentioned purpose – aimed at creating an environment conducive to respect for human beings, preventing an/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation.”

More specifically, a protection activity:

- Prevents or puts a stop to a specific pattern of abuse/violation and/or addresses its immediate effects (*Responsive Action*);
- Restores people's dignity and ensures adequate living conditions through reparation, restitution and rehabilitation (*Remedial Action*);
- Fosters an environment conducive to the respect for the rights of individuals in accordance with the relevant bodies of law (*Environment Building*)

210. The overriding objective of protection is to promote and safeguard the *physical, legal and material safety* of affected individuals/populations. This objective is normally pursued through the following protection principles and activities:

⁵⁷ Organization for African Unity

⁵⁸ The UN Charter, Chapter VI – VII.

⁵⁹ In addition, parties to the Genocide Convention of 1948 (Member States) are legally obliged to act to prevent or stop genocide.

- *Physical Safety*: monitoring; reporting; intervention; liaison with, and capacity building of, military actors and law-enforcement officials; de-mining and mine-risk education; addressing GBV, HIV/AIDS; family-reunification; and, transportation.
- *Legal Safety*: development of legal frameworks; legal reform of national laws; amnesty laws for ex-combatants and draft-evaders; establishing tripartite agreements and ground-rules; capacity building of civil authorities and the judiciary; registration and restitution; legal aid and advocacy; and, human rights protection mechanisms.
- *Material Safety*: provision of assistance, basic services and income-generating opportunities.

211. While assistance activities can be designed to promote protection (“protection-driven assistance”), ‘protection’ generally refers to policies and practices rather than commodities and supplies. Protection is principally about ensuring access, acquisition and exercise of rights – *without fearing for one’s security*.

212. The nature and strategies of appropriate protection activities are determined on the basis of the intensity of violations as well as the political dynamics at work in abusive environment. A situation of massive and systematic violations often warrants a different protection strategy than does a post-conflict situation. Similarly, a reconciliatory environment permits a different type of protection activities than would be possible in a resentful environment.

213. Protection is a non-partisan activity based on strict impartiality in accordance with non-discriminatory provisions of international humanitarian, human rights and refugee law. However, in promoting respect for the rights and duties enshrined in these international instruments, protection is inextricably linked to the practices and policies of those who are primarily responsible - *de jure* or *de facto* - for human security in a state, territory or at a global level, i.e governments, non-state actors and the United Nations. This interrelation adds a political dimension to protection.

214. At a field-level, the political aspect of protection is manifested in situations where humanitarian protection actors interact with political players, such as civil and military authorities, to address violations that in turn might be politically motivated.

215. At the level of the global community, the Security Council is a political body mandated by the UN Charter to enforce international law.⁶⁰ Since humanitarian action alone is not sufficient to establish the rule of law, let alone prevent or bring an end to systematic violations of international law, the UN Security Council has over the past five

⁶⁰ The UN Security Council is primarily responsible for the maintenance of international peace and security (UN Charter, Article 24) and has at its disposal peaceful means (Chapter VI) or the use of force (Chapter VII).

years become more involved with the protection of civilians.⁶¹ Although the political will might not always be forthcoming, it is generally understood that political support is required in conflict and post-conflict situations, especially where law and order has broken down, threatening the security of civilians. It is against this background that the notion of “human security” emerged.

Human Security

216. Human security is the subject of discussion amongst a wide range of academic, developmental, humanitarian and political actors. Although the entry points may differ, the ultimate objective is to promote human dignity based on human rights, sustainable development and international peace. There is also a shared understanding that *freedom from fear* predicates this aspiration:

“A human world where people can live in security and dignity, free from poverty and despair, is still a dream for many and should be enjoyed by all. In such a world, every individual would be guaranteed freedom from fear and freedom from want, with an equal opportunity to fully develop their human potential. In essence, human security means freedom from pervasive threats to people’s rights, their safety or even lives.” (Human Security Network).⁶²

217. The relationship between protection and human security in conflict and post-conflict situations, and the need for political action to address the same, has been given particular attention under the theme “Protection of Civilians”. In introducing the agenda on Protection of Civilians in Armed Conflict to the Security Council in 1999, the Canadian Government made human security a central component. Human security was seen to counterbalance the traditional emphasis on “national security” - a notion that has often been used to justify human rights violations.

218. With the emergence of human security on the political scene, it was argued that the provision on state sovereignty laid down in Article 2.7 of the Charter should not be seen as unconditional, nor constitute the overriding objective of the UN, especially not at the cost of the provisions on human rights, for instance Articles 55 and 56.⁶³ Unless people experience freedom from fear in claiming their human rights, there can be no legitimacy

⁶¹ Since 1999, the UN Secretary General has submitted three reports to the Security Council on the Protection of Civilians in Armed Conflict (S/1999/957), (S/2001/331) and (S/2002/1300), which offer recommendations on criteria and tools for Security Council Action. The reports have been supplemented by an Aid Memoire aimed at providing practical guidance on protection issues (S/PRST/2006) and (S/PRST/2003/27).

⁶² humansecuritynetwork.org

⁶³ Article 2:7: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.../...but this principle should not prejudice the application of enforcement measures under Chapter VII.”

Article 55: “The United Nations shall promote universal respect for human rights.../...”

Article 56: All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

in state sovereignty, nor will there be conditions conducive to international peace and security.

219. As the Security Council debated human security and protection within a political framework, these interrelated notions were also given a practical definition at the field level, reiterating the need to complement humanitarian assistance activities with protection. The late UN Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Sergio Vieira de Mello made this point succinctly when assessing the dire situation of IDPs in Kosovo in the spring of 1999:

"It will be a Herculean task to repair homes, provide minimal services, rehabilitate the infrastructure, provide food and medical assistance, which are top priorities, but nothing is more important than providing them with security and confidence."

220. It was in this vein that the notion of human security evolved into a central element of protection. It reaffirmed that humanitarian action must not be limited to the provision of aid, but must, above all, promote conditions conducive to accessing and enjoying physical, legal and material rights in safety. This in turn requires political support because human security can only be built where there is political vision. Above all, it requires freedom from fear *also* among international actors - for the aspiration of human security can only be achieved where there is moral courage to see it through.

ANNEX II. LIST OF INTERLOCUTERS

- 1) Action Africa Health
- 2) American Refugee Committee (ARC)
- 3) Bahr-el-Ghazal Youth and Development Agency (BYDA)
- 4) Bahr-el-Ghazal Women's Development Center (BWDC)
- 5) CARE
- 6) Canadian International Development Agency (CIDA)
- 7) Civilian Protection Monitoring Team (CPMT)
- 8) Catholic Relief Service (CRS)
- 9) Children of the World/Enfants du Monde Droit de l'Homme
- 10) Child Rights Watch
- 11) Christian Aid
- 12) Christian Solidarity International
- 13) Department for International Development (DFID)
- 14) ECHO
- 15) EC/EU (Human Rights, Governance-Rule of Law)
- 16) Embassy of Canada
- 17) Embassy of Norway
- 18) Embassy of the Netherlands
- 19) Embassy of the United Kingdom
- 20) Food and Agriculture Organization (FAO)
- 21) Federation of Sudanese Civil Society Organizations (FOSCO)
- 22) Fellowship for African Relief (FAR)
- 23) Humanitarian Affairs Commission (HAC)
- 24) International Committee of the Red Cross (ICRC)
- 25) Internally displaced persons (IDPs)
- 26) International Rescue Committee (IRC)
- 27) International Organization for Migration (IOM)
- 28) Islamic Relief Services
- 29) Max Planck Institute for International Law
- 30) Muslim scholars and imams
- 31) MSF – France
- 32) MSF – Holland
- 33) New Students Indigenous Organizations Network (NESI)
- 34) New Sudan Council of Churches (NSCC)
- 35) Norwegian Refugee Council (NRC)
- 36) Nuba Mountains Pact (NMPACT)
- 37) Nuba Relief Rehabilitation Development Organization (NRRDO)
- 38) OXFAM
- 39) PACT
- 40) Peace Committee in Warawar
- 41) People Local Aid Center (PLACE)
- 42) Rift Valley Institute

- 43) Save the Children – UK
- 44) Save the Children - Sweden
- 45) South Sudan Indigenous NGO Coordinating Council (SSINCC)
- 46) South Sudan Law Society (SSLS)
- 47) South Sudan Relief and Rehabilitation Commission (SRRC)
- 48) Spanish Red Crescent
- 49) Sudan Council of Churches (SCC)
- 50) Sudan Peace Fund
- 51) Sudan People’s Liberation Movement/Army (SPLM/A)
- 52) United Nations Development Programme (UNDP)
- 53) United Nations High Commissioner for Human Rights (UNHCHR)
- 54) United Nations High Commissioner for Refugees (UNHCR)
- 55) United Nations Children’s Fund (UNICEF)
- 56) United Nations Development Fund for the Advancement of Women (UNIFEM)
- 57) United Nations Mine Action Service (UNMAS)
- 58) United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA)
- 59) United States Agency for International Development (USAID)
- 60) Verification and Monitoring Team (VMT)
- 61) World Food Programme (WFP)

ANNEX III. SUGGESTED READING

ALNAP. 2003. *Humanitarian Protection – A Guidance Booklet*

IASC. 2003. *Frequently Asked Questions on International Humanitarian, Human Rights and Refugee Law*

IASC/ UNICEF/OCHA. 2002. *Growing the Sheltering Tree: Protecting Rights through Humanitarian Action*

IASC. 2002. *Plan of Action and Core Principles of Codes of Conduct on Protection from Sexual Exploitation and Abuse in Humanitarian Crisis*

InterAction Protection Working Group. 2004. *Making Protection a Priority: Integrating Protection and Humanitarian Assistance*

ICRC. 2000. *Strengthening Protection in War - A Search for Professional Standards: Summary of Discussions Among Human Rights and Humanitarian Organizations*

OCHA. 2003. *No Refuge: The Challenge of Internal Displacement*

OCHA. 2000. *An Easy Reference to International Humanitarian and Human Rights Law*

OCHA. 1999. *Guiding Principles on Internal Displacement*

OCHA/UNICEF/Brookings Institute. 1999. *Handbook for Applying the Principles on Internal Displacement*

OCHA. 1999. 2001. 2002. *The Secretary-General's Report on the Protection of Civilians in Armed Conflict to the Security Council*

UNICEF. 2002. *HIV/AIDS and Children Affected by Armed Conflict*

UNICEF. 2002. *Implementation Handbook for the Convention on the Rights of the Child*

UNHCR. 2003. *An Agenda for Protection*

UNHCR. 1999. *Protecting Refugees: A Field Guide for NGOs*

UNHCR. 1995. *Sexual Violence Against Refugees: Guidelines on Prevention and Protection*

UNHCR. 1991. *Guidelines on Protection of Refugee Women*

ANNEX IV. MAP OF THE SUDAN