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## **1. INTRODUCTION: WINNING OIL - LOSING PEOPLE**

Oil seems to have been the final spark for uprisings and the formation of armed opposition groups in Sudan such as the Anyanya II, and the Sudan People=s Liberation Army (SPLA) in 1984. One of the SPLA=s first armed activities were targeted at the workers of the oil company *Chevron*, which planned to construct an oil pipeline running from the oil fields of the South to the refineries located in the northern harbour of Port Sudan.

Oil is also a symbol of the Sudanese problem: Sudan=s recent history of decolonization, failed nation-building and its continuing political affairs are reflected in the story of oil. Economic factors, such as oil exploration and extraction, show not only that considerations of the global economy dominate political decision-making but also clearly indicate the underlying sources of the conflict in Sudan.

Amnesty International is publishing this report in an effort to make clear the link between the massive human rights violations by the security forces of the Government of Sudan and various government allied militias, and the oil operations by foreign companies. The pattern of human rights violations includes atrocities and the forcible internal displacement of large populations of local people. These violations by government security forces and armed opposition groups are directed at the population living in oil fields and surrounding areas, and is an effort to control, protect or destroy the oil production capacity.

Foreign companies are involved in this lucrative oil production, and they expect the Sudanese government to provide a secure environment, which includes the use of security forces to protect oil company staff and assets. Thus, Amnesty International believes many foreign companies tolerate violations by turning a blind eye to the human rights violations committed by the government security forces or government-allied troops in the name of protecting the security of the oil-producing areas. Some companies allegedly have employed private military and security companies, or have utilized security forces that have conscripted child soldiers.

This document is intended to establish a dialogue with foreign oil companies, raising our concerns about the responsibility that these companies should have in promoting a better human rights environment in the area where they are active in extracting oil.

## **2. BACKGROUND TO THE PROBLEM**

Sudan, the largest country in Africa, has been at war with itself for much of the last half a century. A civil war broke out the year before independence in 1956 and, apart from a period of peace between 1972 and 1983, continues to the present day.

The country of about 30 million inhabitants stretches from the desert in the North to the green lush areas in the South, bordering

Uganda. On the dividing line between northern and southern Sudan there is fertile grazing land, mountainous fertile land and vast swamps.

Flying over Sudan it seems almost uninhabited - only by getting closer can one see the clutches of huts and, even more hidden, the cattle camps and the people. The oil companies involved in Sudan frequently assert that there are no settlements in the oil-rich areas and that allegations of mass displacement are therefore inaccurate<sup>1</sup>. This is clearly not so.

Almost 2 million people are estimated to have been killed since 1983. More than 4.5 million people are internally displaced; some of them permanently, most of them >temporarily=, although temporary is a euphemistic term when internal displacement can exceed 15 years. More than one million Sudanese people are living in exile in other countries.

Currently the country is ruled by a military government under President General Omar Hassan al-Bashir, who took power by a military coup in 1989. The military coup was built upon a pre-existing intellectual architecture of an Islamist state, designed largely by Hassan al-Turabi. However, Hassan al-Turabi, the former speaker of Parliament and leader of the National Congress under President al-Bashir, was sidelined by a Presidential declaration of a State of Emergency in December 1999 .

The main victims of the full-scale war in Sudan are civilians. The Aconventional@<sup>2</sup> war is being fought between the regular army of the Sudanese government and the biggest armed opposition force, the Sudan People=s Liberation Army (SPLA). The Aother@ war, which accounts for the majority of casualties, is being fought between various militias allied with the government or the SPLA. These forces frequently change sides depending on their perceived interests, the possibility for more power or simply the supply of arms. It is estimated that during the last few years, more people have lost their lives in inter-factional fighting amongst Southerners than in armed encounters with government forces.

On the Government side, its forces include the regular army; members of ethnic groups armed by the previous government of former Presidents Sadiq al-Mahdi and Jaafar Muhammed Nimeiri; a government-organized militia known as the Popular Defence Force (PDF) with its holy warriors (*mujahedin*) fighting a *jihad*. They all fight on behalf of the government but are motivated by varying interests.

To ensure a supply of troops for the PDF, the government of Sudan has a conscription law that stipulates military training as a precondition to enter university or for admission to final tests at

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<sup>1</sup> As mentioned by Jim Buckee, CEO of Talisman in meetings with NGOs, as well as claimed by Lundin in response to letter Amnesty International sent to oil companies involved in Sudan.

<sup>2</sup> Conventional war is defined as a confrontation between government forces and the forces of the armed opposition group fighting a civil war.

colleges, as well as for further education and higher employment. This stipulation is for both men and women, but the men are sent into active combat, whereas women are not actively used as frontline fighters. The men sent as PDF forces to the frontline, such as in the case of the newly introduced brigade to protect the oilfields (known as the oil-brigade or *al Himat al-Bitrol*) are mobilized as *mujahedin*, or holy war fighters. They are promised that they will protect the right way of living and will become martyrs if they die in the war.

The pursuit of control over the oil territory provides a powerful incentive for assembling forces based on ethnic origin. For the Government of Sudan it therefore becomes easier to identify ambitious and power-hungry rebel commanders and supply them with weapons to defend the oil areas against their former allies in the SPLA. In turn, the SPLA and its allies are increasingly recruiting their fighters from specific ethnic backgrounds.

The fighting between the southern rebel militias intensified after a number of former SPLA commanders signed a peace agreement with the Government of Sudan in 1997. The government's divide and rule strategy ultimately led to the devastating human rights violations currently faced by the people in the oil-rich state of Western Upper Nile.

Figure 1 Peter Verney: Raising the stakes: Oil and conflict in Sudan. A Sudan Update Report. 1999

### 3. HUMAN RIGHTS VIOLATIONS COMMITTED IN THE NAME OF OIL

*All sectors of the people are now protecting the petroleum, not only the armed forces.*<sup>3</sup>

Address by Minister of National Defence Staff Lt-Gen Abd al-Rahman Sirr al-Khatim to some 2,500 PDF *muhajedin* sent to support the newly formed Oil Brigade, May 1999

*The armed forces, the People's Defence Forces, the Unity Police Forces and the mujahedin (holy soldiers of jihad) were capable of protecting the nation's achievements.*

Statement by the Minister of Defence during a troop inspection in the Heglig oilfields, May 1999<sup>3</sup>

Tens of thousands of people have been terrorized into leaving their homes in Western Upper Nile since early 1999. Government forces have used ground attacks, helicopter gunship and indiscriminate high-altitude bombardment to clear the local population from oil-rich areas. This massive displacement of the local population followed the deployment of additional weaponry and forces specifically drafted in to protect the oilfields. The military tactics of the government's security forces of destroying harvests, looting livestock and occupying the area is designed to prevent the return of the displaced population.

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<sup>3</sup> (BBC 16/05/99)

There have been reports that government troops cleared the area around the town of Bentiu using helicopter gunships, some allegedly piloted by Iraqi soldiers, and aerial cluster bombardment by high-altitude Antonov planes.<sup>4</sup> In addition to the air attacks, government troops on the ground reportedly drove people out of their homes by committing gross human rights violations; male villagers were killed in mass executions; women and children were nailed to trees with iron spikes. There were reports from some villages, north and south of Bentiu, such as Guk and Rik, that soldiers slit the throats of children and killed male prisoners who had been interrogated by hammering nails into their foreheads. In Panyejier last July, people had been crushed by tanks and strafed by helicopter gunship.

Villages north of Bentiu, such as Gumriak and Pariang, were cleared of civilians at the beginning of 1999. Among the villages most affected by the attacks and subsequent forced displacement since mid-1999 are Mankien, Langkien, Neny, Duar, Koch, Toic and Leer. In July 1999, the World Food Program (WFP) reported that tens of thousands of people who had fled their homes in June to seek safety were trapped in the oil-rich area of Western Upper Nile.<sup>5</sup> At least 20,000 of the people reported missing in the areas of the oilfields by the WFP, have since been reported to be living in neighbouring counties; most made their way to Bahr al-Ghazal and the Lakes region around Yirol. There are several thousand families belonging to the Nuer ethnic group in Pagarau in the Yirol area and in Twic and Ruweng in the Bahr al-Ghazal area. In Makuac and Wuncuie alone there are more than 10,000 displaced Nuer from the oil areas.

In the area surrounding Bentiu the killing of hundreds of civilians, the destruction of hundreds of homesteads, and the displacement of thousands of people have been documented.<sup>6</sup> The raids in Ruweng county, northeast of Bentiu in early 1999, left thousands of people without homes. Those raids were reportedly carried out by the government's PDF and *mujahedin* forces.

Southeast of Bentiu, thousands of people were displaced from villages around Koch and Leer by fighting between different Nuer factions. Some of the faction militias were supplied with arms and deployed by the government. The forces of rebel leader Paulino Matip carried out attacks and raids the first half of 1999. According to Peter Gadet, who was a commander under Paulino Matip at the time of the raids, the forces summarily executed scores of civilians, raped and abducted women and burned and destroyed homesteads. In an interview conducted during an Amnesty International visit to Wicok village in October 1999, Peter Gadet stated that the main purpose for the

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<sup>4</sup>Julie Flint, *The Observer* (London), March 2000

<sup>5</sup>New Release, 10 July, WFP, Nairobi

<sup>6</sup> Damien Lewis, Sudan: Oil Wars. 1999

atrocities had been to gain control over the oilfields.

Figure 2. Women running away from the oilfields in southern Sudan. 8Video still from Damien Lewis. Sudan: Oil 1999

### **Military conflict in the Western Upper Nile region**

In 1997 the government signed a peace agreement with Riek Machar, a former SPLA commander who had split from the main SPLA movement in 1991. Cooperation between government troops and the forces of Riek Machars= South Sudan Defence Forces (SSDF) ensured that there was a military force supposedly loyal to the government in the oil rich area around Bentiu in the Western Upper Nile region, also known as Unity State. SSDF forces were deployed around the oilfield and Riek Machar was appointed Minister for the Southern States and took up office in the capital, Khartoum. This deployment was intended to ensure that Riek Machar, himself a member of the Nuer ethnic group, controlled the predominantly Nuer population of Western Upper Nile who would view the SSDF as a force which was friendly to the population rather than as an occupying force.

However, in April 1999 the government changed its strategy and deployed the regular army as well as the forces of another Nuer commander, Paulino Matip, in the area. The government denied it had a direct link with Paulino Matip while at the same time legitimizing his official government affiliation by appointing him as a Major General of the regular government army. The government did not inform Riek Machar, who was the official responsible for security in the area, of this new deployment. The result was an outbreak of heavy fighting in the area. In January 2000 Riek Machar resigned his post, disassociated himself from the peace agreement and returned to the South to fight against government forces.

For the local population this divide and rule strategy by the government has led to widespread destruction and a scorched earth policy. Scores of civilians were killed and dozens of women and girls were raped by the forces of Paulino Matip. The armed militias burned down villages, looted houses and homesteads, seized livestock and torched harvests and crops.

## **4. THE LINK BETWEEN OIL AND HUMAN RIGHTS VIOLATIONS**

### **Who is drilling in Sudan?**

The list of foreign oil companies operating in Sudan is long and a multinational one. Two main consortiums are currently active in oil extraction in the Western Upper Nile region.

*The Great Nile Petroleum and Oil Corporation* (GNPOC) holds the concession for the two main oil producing areas, Unity (Block 1) and Heglig (Block 2). The main partner in this consortium is *China National Petroleum Corporation* (CNPC), a company wholly-owned by the People=s

Republic of China. CNPC has a 40% share in the project. Other major shareholders are the Malaysian state-owned *Petronas Bhd* which has a 30% stake, Canada's *Talisman Energy*, which has a 25% stake, and *Sudapet*, the national petroleum company of Sudan, which has a 5% stake. Partly in order to pay off debt, CNPC recently offered about 10% of shares in its subsidiary, *PetroChina*, to international investors, retaining the rest. The offer was made in international stock exchanges, including the New York Stock Exchange. Among the biggest investors in *PetroChina*'s issue was the British oil company, *BP-Amoco*, which has no direct investment in Sudan. (See quote from John Browne below).

*International Petroleum Corporation (IPC)* is wholly owned by Stockholm-based *Lundin Oil AB*. It signed the agreement with the Sudanese Government for the concession on Block 5A (29.412 square kilometres) in February 1997. *IPC* retains a 40.357% share of the Block 5A concession, leading a consortium with Malaysia's *Petronas* with 28.5%, Austria's *ÖMV Sudan GmbH* with 26.125% and *Sudapet* with 5%. However, the activities on the ground on Block 5A stopped in May 1999 when intense fighting in the area forced them to pull out.

Other oil companies involved in Sudan are *Agip* (Italy) who signed an agreement with *Petronas* in December, *Elf-Aquitaine* (France), *Gulf Petroleum Company* (Qatar), *National Iranian Gas Company (NIGC)* and *TotalFina* (France). In addition, *Royal Dutch Shell* (The Netherlands) owns a refinery in Port Sudan.

The Minister of Energy Awad Ahmed Eljaz announced in November that oil companies from Britain, India, Italy, New Zealand and Pakistan are competing for new concessions around the town of Bor, further south of the present oil extracting areas. In March this year the government signed a new oil exploration agreement with a consortium comprised of a joint venture between *Gulf Oil Company* (Qatar) and *al-Ghanawa* (Sudan) with a 46% stake, three unnamed Canadian and European companies with a 46% stake and state-owned *Sudapet* with an 8% stake. The new concession area covers 70,000 square kilometres reaching from Upper Nile to the eastern border with Ethiopia.

### **The pipeline builders**

Construction of the oil pipeline running from the south to the north of the country began in 1997; it finally became operational in August 1999. Companies involved in construction work in the oilfields and on the pipeline included *Denim Pipeline Construction Ltd* (Canada) and *Roll-n Oil Field Industries* (Canada). The UK-based companies *Weir Pumps Ltd* and *Allen Power Engineering Ltd* have contracts to provide and maintain the oil pumps. The main part of the 1,600 kilometre-long pipeline was built by People's Republic of China. More than 500 km was supplied by *Mannesmann* (Germany) which holds one-third of *Europipe* consortium shares. *Europipe* sold the pipeline tubing to the Chinese companies which carried out the construction of the pipeline.

**Figure 3** Peter Verney: Raising the stakes. Oil and conflict in Sudan. A Sudan report Update. 1999

Staff employed by these companies worked in an area where there were serious security concerns. The pipeline crosses territories that are or have been in the frontline of the armed conflict. In order to build the pipeline local populations were allegedly displaced without compensation; there were allegations that armed guards from China participated in this displacement during construction of the pipeline.

### Oil and Security

*Open markets, efficient and sustainable use of resources, steady economic development and an open society are the conditions in which we can best pursue our business. They run directly contrary, of course, to the common belief that companies find it easier to deal with the apparent stability of repressive regimes than to manage the uncertainties of democracy. In fact, stability built on repression is always false.*@

John Browne, Group Chief executive of the UK-based oil company *BP Amoco* which this year purchased some US\$576,000,000 worth of shares in *PetroChina*. CNPC, the Chinese state-owned oil company which has the biggest share of the largest oil consortium operating in Sudan, owns about 90% of *PetroChina*. *BP Amoco* has said it is prepared to invest up to \$1 billion in *PetroChina*, representing some 20% of shares on offer. Amnesty International has called on *BP Amoco* to use its influence with CNPC to promote the protection of human rights in Sudan.

*I believe a company that is doing business in a country under a repressive regime must not provide financing or other resources for the perpetuation of wrongdoing or atrocities. As long-term investors, we believe a company that is cavalier about its moral and social responsibility presents an unacceptable investment risk. The expanding divestment campaign against Talisman Energy for alleged complicity in the horrors in Sudan is just one indication of that risk.*@<sup>7</sup>

Alan G. Hevesi, Comptroller of the City of New York Pension Funds and a shareholder in *Talisman Energy*

A direct link between the nature of the war and guarantees for security for oil exploration by foreign oil companies became most obvious in intensified warfare in the beginning of 1999. Amnesty International has observed a pattern of gross human rights violations in those areas in which foreign oil companies have exploitation rights, both in those areas where companies are actively operating with staff and in those areas where companies have withdrawn, leaving assets but retaining their rights to oil production.

Amnesty International and other international observers, including journalists, and international humanitarian relief agencies are denied access to sites in the war zones where oil is produced. Nevertheless, over a period of the past year, Amnesty International has received numerous reports of massive forcible displacements of populations, testimonies about government security forces and

<sup>7</sup> Letter, written by Alan G. Hevesi to Mr James Buckee, president and chief executive officer of *Talisman Energy*, September 27, 1999

government-allied troops carrying out aerial bombardments and strafing of villages from helicopter gunships. Amnesty International has thus documented a pattern of extrajudicial and indiscriminate killings, torture and rape -- committed against people not taking active part in the hostilities.

Amnesty International is confronted with difficulties in confirming all the reports due to the intensified fighting in the war zone around the oil fields and the fact that there is no access to this area. Nevertheless, the numerous reliable reports we are receiving show trends and patterns of human rights violations in this area as described above.

Oil companies have acknowledged that Sudan is not a safe working environment. John Garang, leader of the SPLA, announced in August 1999 that the new oil pipeline as well as the oilfields and oil company workers were regarded as legitimate military targets by the SPLA and would come under attack.

Since the oil pipeline running from the south to the north of the country finally came into operation in August 1999, it has been attacked at least three times, mainly in north-eastern Sudan. The most recent attack took place in January 2000 and was carried out by Beja Congress -- the armed opposition group in northeastern Sudan and part of the armed opposition of the National Democratic Alliance -- under the command of the SPLA. The Beja Congress attacked the pipeline in Haiya town, causing an enormous loss of oil. The previous attacks occurred in Atbara town in September 1999 and near Erkowit town in November 1999.

The oil companies have used various security personnel to safeguard their operations and investments. There are allegations that private military and security companies have provided training for local security staff hired by oil companies.

Oil companies cannot ignore the link between the oil and the fighting, not least because of the direct impact it has on the security of their staff. The drive for oil and territorial control over the oilfields is central to the war between the government and armed opposition forces, as well as ongoing conflict between the various militia factions. Amnesty International calls for oil companies to use their influence to protect the local population.

In the 1980s the local population was permanently displaced from the areas of the Unity and Heglig oilfields -- and the 5A oilfield -- operated by *Total* during the 1980s and now operated by *IPC*. The permanent and temporary displacement of local populations is still continuing. Fighting has intensified in the areas around these oilfields and the various armed opposition faction leaders --such as Peter Gadet, Riek Machar and Tito Biel -- have all claimed that one of their central military objectives is to keep control of the oil-rich areas.

In a meeting held in October 1999, shortly after he split from the forces of Paulino Matip, Commander Peter Gadet confirmed that the government had arranged for Paulino Matip's forces to clear the local

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population from the area of the oilfields. He stated: *AWe as Nuer have to reconcile with each other in this area and take control of what is ours. If the companies continue, we will attack the fields and we will attack the workers.*@

Companies are being accused by many of becoming directly involved in this ongoing war by siding with one of the parties to the conflict -- the Government of Sudan -- in that they expect the government to establish security and law and order in a war zone. By turning a blind eye, in the name of security, to the violations committed by government forces and troops allied to them, they indirectly contribute to violations continuing. The silence of powerful oil companies in the face of injustice and human rights violations can not be seen as not neutral.

## 5. OIL COMPANIES AND THEIR RESPONSIBILITIES

Amnesty International takes no position for or against oil exploration or commercial enterprises *per se*. It is concerned, however, about the role which companies play when they become in effect beneficiaries of a conflict in which human rights are violated. In the case of Sudan, human rights violations are being committed on a large scale and predominantly against people who are not taking any active part in hostilities. Amnesty International believes that companies are responsible for the way the local community is treated as a result of their operations.

It may not always be possible to draw a direct, causal connection between oil exploration or a company=s activities and human rights violations committed in the company=s geographical area of activity, such as the indiscriminate bombings of civilians and forced displacement. Nonetheless, Amnesty International is concerned that oil exploration may be used as a justification for the forcible displacement of local populations by security forces through human rights violations.

Some of the companies involved in exploration, drilling, production or maintenance of the oilfields or the pipeline in Sudan have experience of operating in areas of armed conflict in other parts of the world and understand the risks to their corporate reputations that go along with such involvement.

Human rights violations committed against oil company staff in Sudan in the 1980s should have given cause for concern to the companies that joined in the exploitation of oil in Sudan in the 1990s. For example, *Chevron* suspended oil activities altogether after the kidnapping and subsequent execution by the SPLA of three expatriate *Chevron* workers in March 1984.

A company that conducts its activities in an area of intense armed conflict bears responsibility for the way in which its employees= lives might be endangered as a result of the company=s links with one of the parties to the conflict. Amnesty International believes that oil companies also have responsibilities towards the people living in the area of their

operations. Amnesty International encourages companies to engage in a dialogue with the local population where their operations are conducted.

Amnesty International believes that respect for human rights should be a central issue for any company which is involved in a war-torn environment such as southern Sudan. It believes that the company=s profit-making interests and the government=s interest in exploiting oil resources to increase state income can both be best assured by a secure environment in which human rights are respected. This must involve ensuring the safety and well-being of the local population and refusing to condone violations of human rights by security forces.

### **The investment boom - The profit motive overrides security**

Until recently foreign investors had been circumspect about commercial involvement in Sudan because the safety of their employees and investments could not always be guaranteed. In addition, many investors wanted to avoid possible negative publicity because of their association with a government with a poor record on human rights issues. However, over the past year this picture has changed. Oil -- and the revenues that oil production is expected to generate -- has persuaded investors to overlook the Sudanese government=s reputation in favour of optimistic predictions of future oil-fuelled development in Sudan.

The former Minister of Finance, Abdel Wahab Osman, announced in 1999 that Sudan=s own oil exports would contribute 21 per cent of state revenues the following year. Prior to 1999 Sudan had imported up to US\$360,000,000 worth of oil annually<sup>8</sup>. Osman estimated that oil revenue will generate an income of US\$1.2 billion annually for the Sudanese government.

On 30 August 1999, President al-Bashir declared the 1,600 kilometre-long oil pipeline open. It is estimated that the pipeline will carry approximately 250,000 barrels of oil a day from the Western Upper Nile region in the south to refineries and the major Sudanese port of Port Sudan in the north. Since the first shipment from Port Sudan took place in September 1999, the pipeline has been attacked by armed opposition forces at least three times.

There is a clear connection between the new-found oil wealth and the government=s ability to purchase arms. On the day of the export shipment of the first 600,000 barrels of oil, an import shipment of 20 Polish T-55 tanks arrived in Port Sudan.<sup>9</sup> This shipment by the Polish government was in violation of a long-standing UN embargo on arms

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<sup>8</sup> Rueters, Jan. 4, 2000

<sup>9</sup> AFP, August 31, 1999 from Gazeta Wyborcza

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transfers to the Sudanese government. Further arms transfers to Sudan from China and Bulgaria have also been reported.<sup>10</sup>

## 6. COMPANIES= SECURITY ARRANGEMENTS

Amnesty International expects all companies to contribute to creating an environment where human rights are understood and respected. Amnesty International does not condemn companies that work in countries where there is a high level of human rights violations, but it asks that they address specific violations and promote respect for human rights.

### Child combatants

There is increasing evidence that those who provide security to the oil companies have child soldiers in their employ. A former commander in the forces of rebel leader Paulino Matip, which were employed by the government to protect oil installations, informed Amnesty International that child combatants are commonly used as fighters. During a visit to Khartoum in February 2000 Amnesty International delegates received information about children being taken from the streets of Khartoum and forcibly recruited to the PDF. The minimum age for lawful recruitment to the PDF is 16. The children's parents are not informed and most of the young recruits are sent to the frontline.<sup>11</sup>

#### **Fig.4 Child Soldiers fighting in the oil fields, Sudan 8Reuters 14.02.2000**

Oil companies should that their operations are not protected by security forces who utilize child combatants. Amnesty International believes it is reasonable to expect an oil company to inform itself of the security arrangements in its environs and challenge the use of child combatants.

According to International Labour Organisation (ILO) Convention No. 138 on Minimum Age (1973), 18 years is the minimum age for admission to employment or work which by its nature or circumstances

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<sup>10</sup> Al-Sharq al-Aswat, 28 January 2000.

<sup>11</sup> Several reports on the forceful conscription of children under 18 have been published. The report of the Coalition to Stop the use of Child Soldiers entitled, *The Use of Children as soldiers in Africa*, published in March 1999 quotes several sources who confirm the forced conscription of boys aged 16 and under by the Popular Defence Forces. The Minister of Defence, Omer Abdul Marouf, is quoted as explaining the conscription policy as follows: *We made clear to the parents that any student who does not report for military service or military training will miss chances of going to university, going abroad, or doing business in the country.* (IPS 23 October 1997, quoting a national TV speech of the Minister of Defence.)

in which it is carried out is likely to jeopardise the health, safety or morals of young persons<sup>12</sup>. ILO Convention No. 182<sup>12</sup> concerning the prohibition and immediate action for the elimination of the worst forms of child labour defines a child in Article 2 as All persons under the age of 18<sup>13</sup> and in Article 3(a) defines Aforced or compulsory recruitment of children for use in armed conflict<sup>13</sup> as one of Athe worst forms of child labour<sup>13</sup>. Article 1 of Convention No. 182 commits each state which ratifies it to Atake immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency<sup>13</sup>. Under this Convention, the term Achild<sup>13</sup> applies to all persons under the age of 18 years (Article 2) and the worst form of child labour are described as:

*All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for the use in armed conflict<sup>13</sup>. (Article 3(a))*

Amnesty International opposes the participation of children in hostilities and holds both governments and non-governmental entities responsible for this violation of the human rights of children.

### **Private military and security companies**

There are reports that *mujahedin* fighters from Afghanistan and Malaysia, have been used to protect the staff and property of companies involved in the building of the oil pipeline. Such allegations raise concerns about the extent to which the security arrangements of companies involved in the construction of the pipeline conform to international standards.

Furthermore, the alleged past involvement of private military and security companies as military advisors and trainers for the troops of the government-allied South Sudan Defence Force (SSDF) raises further questions as to the extent to which oil operations is directly or indirectly contributing to the conflict. The government denies that it has been recruiting private military and security companies to train the SSDF -- which was formerly commanded by Riek Machar -- and the forces of Paulino Matip, to protect the oilfields.

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<sup>12</sup> The Convention was unanimously adopted by the 174 member states in June 1999.

<sup>13</sup> The African Charter on the Rights and Welfare of the child, which has not been ratified by Sudan, but which defines the rights of African children agreed by the OAU, defines a child as any person under the age of 18 years and prohibits the recruitment of children as soldiers and their use in hostilities.

There have also been allegations that helicopters flown by foreign pilots have been used to ferry Paulino Matip's troops to the areas in which fighting was taking place; these troops are alleged to have carried out atrocities against civilians in Leer.<sup>14</sup>

The Canadian-based company *Talisman Energy* (formerly *British Petroleum-Canada*) took over an oil concession from *Arakis*, another Canadian oil company. Unlike *Arakis*, which in the 1980s allegedly deployed a private security company, *Executive Outcomes*, to safeguard company security, *Talisman Energy* requested the state apparatus to ensure law and order. To fulfil this request the government has used the military -- reported trained by a private military and security company, government supplied armed militias, and the government's PDF to provide the company with appropriate protection.

*IPC* has allegedly employed a local security team, mainly comprised of local Nuer fighters reportedly trained by a private military and security company. *IPC* later suspended its operations because of the instability in the area. The constantly changing alliances of local militia forces meant that the security of *IPC* could not be guaranteed by these forces.

A Chinese oil company has contracted with the Sudanese government to ensure the security of its operations. The Vice-President of the *China Petroleum Engineering and Construction Group Corporation*, Mr. Wang Guoqing, told a reporter in December 1999 that:

*At the Sudanese army had to protect them from guerilla assaults when they built the Heglig and Unity wells. Our workers are used to eating bitterness, they can work 13 or 14 hours a day for very little money. The quality isn't as high, but we charge less.*

Sudanese civilians who escaped attacks in the area south of Heglig and fled through the Wicok area reported that the Chinese workers were armed and appeared willing to use their guns. Other reports from the area around Heglig speak of rapes committed by Chinese workers.

Violence and instability in many countries today have led companies to defend their staff and property by hiring armed guards, and/or by arrangements with state security forces. These arrangements can contribute to human rights violations.

A company should ensure that its own staff and any security forces engaged by them should be properly trained in and committed to the respect of international guidelines and standards on the use of force, in particular the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These standards set strict limitations on when

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<sup>14</sup> *Human Security in Sudan: the Report of a Canadian Assessment Mission*, prepared for the Minister of Foreign Affairs, Ottawa, January 2000, by Mr. John Harker of the Department of Foreign Affairs and International Trade.

force and firearms can be used, and require a reporting and review process if it becomes necessary in any instance to use minimum force.

In the case of foreign oil companies working in Sudan, Amnesty International believes that these companies should examine the backgrounds of those providing that security. Companies must make sure that the people providing the security have not been previously involved in human rights violations, such as extrajudicial or indiscriminate killings, torture or other cruel, inhuman or degrading treatment or punishment or forcible displacement. Silence on the part of companies implies a tolerance of human rights violations and fosters a climate of impunity -- no one will be held to account for committing killings, rapes or house destruction. Companies involved in exploiting the oil wealth of Sudan have a corporate responsibility to ensure that their presence in the oil-producing areas does not contribute to further violations in the ongoing war and forced displacement of civilian population.

The public relations risk to a corporation is high and this means that their investors might call them to account for their investment policies. Amnesty International calls upon shareholders to hold their companies accountable for the human rights impact of their activities.

## **7. INTERNATIONAL STANDARDS ON INTERNAL DISPLACEMENT**

The causes of the displacement in the conflict in Sudan are typical of the increasing international trend to violence that is directed less between armed groups, and more by armed groups against those not taking active part in the hostilities. The primary cause of the internal displacement in Sudan is direct armed attack, or threat of armed attack on civilian populations. In an environment where civilians are the target of armed attacks, displacement could be significantly reduced if combatants respected the essential elements of international human rights and humanitarian law.

International law only allows for the forcible displacement of people under extremely limited circumstances and for temporary periods of time. In those rare cases where it is allowed, parties to the conflict have a wide range of duties which are generally directed at the safety and security of those forcibly displaced. However, there is no support in law for the type of displacement taking place in Sudan where people are forced to flee for the purposes of securing economic interests in oil.

In the context of the ongoing conflict in Sudan, Sudanese forces and armed opposition groups must be guided by both human rights and humanitarian law standards. Most fundamentally, all parties to the conflict have an obligation not to forcibly displace people and to protect human life and dignity. Customary international law has also developed

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as a vital source of an express prohibition of direct attacks upon displaced persons and other civilians.

### **Human Rights Guarantees**

A government that is responsible for or condones the large-scale internal displacement of its own citizens violates its obligations under the Charter of the United Nations which requires all Member States of the United Nations to *promote universal respect for and observance of, human rights and fundamental freedoms for all* (Articles 55 and 56). The rights of those displaced include the whole set of rights enshrined in the Universal Declaration of Human Rights. The norms protecting freedom of movement in Article 12 (1) of the International Covenant on Civil and Political Rights, to which Sudan is a party, point to a general protection against being displaced.

Those who have been internally displaced are covered by the laws of their own country and the Government of Sudan is reminded that they are responsible for assisting and protecting them. Under human rights law, which remains relevant in most cases of internal displacement, those displaced are entitled to enjoy, in full equality, the same rights and freedoms under domestic and international law as the rest of Sudanese citizens. According to treaty-based human rights and humanitarian law standards, States must respect fundamental human rights such as the right to life (including the prohibition of genocide, of arbitrary or summary executions, and of indiscriminate and disproportionate attacks of the civilian population in situations of armed conflict), the right to personal integrity, the prohibition of torture and cruel, inhuman and degrading treatment or punishment.

### **International Humanitarian Law**

The displaced in Sudan are also protected by international humanitarian law. Article 3, common to the four 1949 Geneva Conventions, is the cornerstone for the protection of the internally displaced and is applicable to situations of non-international conflicts.

*Common Article 3* automatically applies: *In the case of armed conflict... each Party to the conflict shall be bound to apply...@*. It extends protection to *"persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors des combat by sickness, wounds, detention or any other cause..."*. It requires at a minimum such persons be treated humanely and prohibits *"at any time and in any place whatsoever"* certain acts including violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture, the taking of hostages and humiliating and degrading treatment and summary executions as some of the enumerated grounds. It is important to note that the obligatory provisions of Common Article 3's minimum rules expressly bind both parties to a conflict.

*Additional Protocol II of 1977, Article 17* protects civilians from arbitrary displacements. In the context of the increased fighting activities and the forced displacement in the area of Western Upper Nile, *Article 17 Protocol II* is important:

*The displacement of the civilian population shall not be ordered or forced for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacement have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.*

In addition to the prohibition on the Government of Sudan, and its agents not to arbitrarily displace people there are also obligations flowing from humanitarian law not to harm civilians. Customary international law codified in *Article 13 (2)* of Protocol II<sup>15</sup> generally provides that the civilian population as well as individual civilians shall enjoy protection against the dangers arising from military operations. It prohibits making civilians as such the object of direct attacks, and acts or threats of violence; the primary purpose of which is to spread terror among the civilian population. In addition, Article 13, by inference, protects civilians from indiscriminate or disproportionate attacks.<sup>16</sup>

Article 4 of Protocol II also provides fundamental, nonderogable guarantees for humane treatment which are relevant to the internally displaced and other victims of the internal conflict in Sudan. It

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<sup>15</sup> 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts ("Protocol II").

<sup>16</sup>A codified definition of what constitutes an indiscriminate attack is contained in *Art 51(4) of Protocol I additional to the Geneva Conventions*.

"4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:

a) those which are not directed at a specific military objective;  
b) those which employ a method or means of combat which cannot be directed at a specific military objective; or  
c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

"5. Among others, the following types of attacks are to be considered as indiscriminate:

a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects;  
and, b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."

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absolutely prohibits a number of abuses of which there is abundant evidence in this conflict.

### **The Guiding Principles on Internal Displacement**

Internally displaced persons have the same rights as other persons living in Sudan and the *Guiding Principles on Internal Displacement*<sup>17</sup> identify the rights and guarantees relevant to the protection of internally displaced in all phases of displacement. They outline standards for protection against arbitrary displacement, protection and assistance during displacement, and for safe return. Most importantly, given the nature of the forced displacement in Sudan, are those Principles relating to protection from displacement.

Principle 5 states: *All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.*<sup>@</sup> In the context of Sudan, this is an important principle given that it places positive duties on the State and the parties to the conflict.

Principle 6 provides that people shall have the right to be protected against being arbitrarily displaced from their place of habitual residence and expressly prohibits displacement in situations of armed conflict (unless the security of civilians or imperative military reasons require this). Principle 8 of the Guiding Principles requires that displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty or security of those affected.

During displacement, principles 10 to 23 refer to people's fundamental rights and protections. In particular, Principle 10 states that: *Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life... Internally displaced persons shall be protected... against attacks or other acts of violence...@.* Principle 13 states that *In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities...@.* Principles 14 and 15 address the right to liberty of movement, the right to seek safety in another part of the country, to leave or seek asylum in another country and not to be forcibly returned or resettled where their life, safety, liberty and/or health would be at risk.

Important standards are included relating to adequate standards of living and not to be arbitrarily deprived of property and possessions (including protection against property being pillaged, destroyed etc). The Guiding Principles also note important safeguards for humanitarian assistance to be provided without discrimination and that the primary duty to assist the displaced rests with national authorities, however, that international actors have the right to offer their services and that this shall be deemed a friendly act.

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<sup>17</sup> UN document E/CN.4/1998/53/Ad d.2

Sudan has an obligation under the treaties it has ratified and under customary law to protect the rights of everyone in its territory. The active involvement of government forces in human rights violations is not only a failure to fulfil these obligations but also a total disregard for international treaties it has voluntarily ratified.

### **Famine as a consequence of displacement**

It would appear that the risk of famine to civilians in the Western Upper Nile region has been heightened by their displacement from their homes. The burning and looting of crops and livestock prevents people from returning to their homes, since no harvest can be expected. By July 1999, the government imposed a ban on relief flights to the area by the United Nations= umbrella organization for relief agencies, Operation Lifeline Sudan (OLS). This flight ban put people under further risk of starvation and reflects the government=s disregard for the well-being of its citizens. It also represents a violation of international customary law, as codified in Article 14 of Protocol II of the Geneva Conventions, which provides that:

*Starvation of civilians as a method of warfare is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water...*

Displacement itself is an abuse of human rights. Displacement is not an inevitable consequence of war and the tactics being used in Sudan to deliberately force people out of their homes for political and economic purposes are most certainly condemnable.

## **8. AMNESTY INTERNATIONAL=S RECOMMENDATIONS**

**Amnesty International has formulated recommendations about how a disastrous human rights situation -- which during more than three decades has cost tens of thousands of lives and displaced hundreds of thousands others -- could be improved. A lasting solution can only result from everyone=s commitment to protect the Sudanese people=s rights. Therefore, Amnesty International is proposing these measures to the Government of Sudan, to the armed opposition groups, to the oil companies and to the international community at large.**

While Amnesty International takes no position on economic or other sanctions, disinvestment or boycotts, we consider that companies have

a responsibility to contribute to the promotion and protection of human rights wherever they may operate.

Amnesty International therefore calls on oil companies present in Sudan:

- \$ to ensure that their operations in Sudan do not contribute to the violation of international human rights law and human rights in Sudan;
- \$ to investigate, where possible, reports of human rights violations within the company=s sphere of activity, to raise concerns about reported violations with the Government of Sudan or the Sudan People=s Liberation Army as appropriate and to encourage all sides to the conflict to observe international humanitarian law and to take active steps to protect the civilian population;
- \$ to raise with the Government of Sudan the conditions for the return of civilians forcibly displaced from their homes in Western Upper Nile and Unity States;
- \$ to ensure adequate human rights training for any security personnel they employ to protect its staff and business interests and to ensure that all security personnel adhere strictly to international human rights standards, including the United Nations Code of Conduct for Law Enforcement Officials;
- \$ to ensure that it is not involved in the transfer of military, security or police equipment, weapons, training or personnel likely to be used to commit human rights abuses
- \$ to refrain from employing those who have been responsible for human rights violations as security personnel and to raise with the Government of Sudan concerns regarding the use of private military and security companies to train government-allied forces to protect the oil installations;
- \$ to ensure, in line with the ILO conventions, that company staff are not placed at risk of human rights violations as a consequence of the company=s presence in Sudan;
- \$ to press the appropriate authorities to guarantee unrestricted access for humanitarian agencies and independent human rights monitors, including United Nations special rapporteurs, to Western Upper Nile and Unity States;
- \$ to give guarantees that the company=s infrastructure will not be used for military purposes that would result in human rights violations;
- \$ to give guarantees that the company will not be silent witnesses to human rights violations.

Amnesty International calls on the Government of Sudan:

- \$ to publicly condemn human rights violations, including extrajudicial executions, rape, forced displacement and

- abduction, committed against civilians by the government army, the Popular Defence Forces and other government-allied militias in the region of the oilfields in Western Upper Nile (Unity State) and elsewhere in the war zones;
- \$ to publicly state its commitment to observing Common Article 3 and Protocol II to the Geneva Conventions at all times;
  - \$ to take active measures to ensure the protection of civilians in the war zones, including during military operations in Western Upper Nile and Unity States aimed at protecting the oil pipeline, oilfields and oil company personnel;
  - \$ to take all necessary steps to bring to justice any member of government or government-allied forces found to have been responsible for human rights violations in accordance with international standards for fair trial and without resorting to the death penalty;
  - \$ to initiate an independent investigation into human rights violations reportedly committed by members of the >Oil Brigade= against civilians in Western Upper Nile and Unity States and to bring an immediate halt to the deployment of child soldiers as part of the >Oil Brigade=;
  - \$ to initiate an independent investigation into the employment of private military and security companies for training and supporting forces to protect the oilfields and facilities;
  - \$ to allow unrestricted access for humanitarian agencies and independent human rights monitors, including United Nations special rapporteurs, to all government-controlled areas, including Unity State and Western Upper Nile.

AI calls on the Sudan People=s Liberation Army and other armed opposition groups:

- \$ to publicly condemn human rights abuses committed by their forces in the context of the civil war;
- \$ to publicly state their commitment to observing Article 3 of the Geneva Conventions and Protocol II to the Geneva Conventions at all times and to take active measures to ensure the protection of civilians in the war zones;
- \$ to allow unrestricted access for humanitarian agencies and independent human rights monitors, including United Nations special rapporteurs, to all areas under their control.

AI calls on the international community:

- \$ to publicly condemn human rights violations committed against civilians in the context of the civil war in Sudan, including extrajudicial executions, rape, forced displacement and abduction carried out by the Sudanese army, Popular Defence Force and

- other government-allied militias in the vicinity of the oilfields in Western Upper Nile and Unity States;
- \$ to pressure all sides to the conflict in Sudan to adhere to the international humanitarian law and to take active steps to protect the civilian population;
- \$ to rigorously monitor business investment in Sudan according to transparent human rights criteria;
- \$ to rigorously monitor transfers of military, security and police (MSP) equipment weaponry personnel or training to all sides to the conflict and to halt all MSP transfers likely to be used to commit human rights violations in Sudan;
- \$ to press for unrestricted access for humanitarian agencies and independent human rights monitors, including United Nations special rapporteurs, to all areas in Sudan including Western Upper Nile and Unity States.