COALITION FOR INTERNATIONAL JUSTICE

SOIL AND OIL:

DIRTY BUSINESS IN SUDAN

February 2006

Coalition for International Justice
529 14th Street, N.W. Suite 1187
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SUDAN
SELECTED CITIES AND TOWNS
STATE (WILAYAH) CAPITALS
NATIONAL CAPITAL
RIVERS
MAIN ROADS
RAILROADS
STATE (WILAYAH) BOUNDARIES
INTERNATIONAL BOUNDARIES
0 100 200 300 Kilometers
0 50 100 150 200 Miles
LIBYA
ARAB REPUBLIC OF EGYPT
SAUDI ARABIA
Red Sea
CHAD
ERITREA
ETHIOPIA
CENTRAL AFRICAN REPUBLIC
DEM. REP. OF CONGO
UGANDA
KENYA
Sahara Desert
Nubian Desert
Lake Nasser
Lake Turkana
NORTHERN
RED SEA
RIVER NILE
KHARTOUM
KASSALA
NORTHERN DARFUR
NORTHERN KORDOFAN
GEZIRA
GEDAREF
WESTERN DARFUR
WESTERN KORDOFAN
WHITE NILE
SINNAR
SOUTHERN KORDOFAN
BLUE NILE
SOUTHERN DARFUR
UPPER NILE
UNITY
NORTHERN B.A.G.
WESTERN BAHR AL GHAZAL
WARAB
JONGLEI
LAKES
WESTERN EQUATORIA
EASTERN EQUATORIA
BAHR AL JEBEL
Wadi Halfa
Kerma
Dongola
Merowe
Port Sudan
Tokar
Haiya
Karora
Atbara
Ed Damer
El'Atrun
Omdurman
KHARTOUM
Kassala
Wad Medani
Gedaref
Sinnar
Kosti
Rabak
El Obeid
Geneina
Al Fasher
En Nahud
Nyala
Ed Da'ein
Al Fula
Muglad
Kadugli
Ed Damazin
Paloich
Malakal
Abyei
Bentiu
Aweil
Wau
Rumbek
Bor
Li Yubu
Yambio
Yei
Juba
Torit
Kapoeta
Kinyeti (3187 m)
Wadi Howar
Nile
White Nile
Blue Nile
Atbara
Bahr el Arab
To Aswan
To Hurghada
To Abéche
To Dese
To Sarh
To Djema
To Isiro
To Beni
To Tororo
25E
30E
35E
20E
20N
15N
10N
5N
0

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1. Introduction and Methodology

Despite the volume of international reporting on Sudan, including human rights reporting, it is striking how little analysis there is of the intersection between human rights abuses and economic and commercial activity in Sudan.

Sudan has one of the worst human rights records in the world. In the nearly fifty years since it gained independence, Sudan has known mostly military rule. Most of those years were also marked by a bloody civil war which stretched from 1955-1972, and again from 1983 to 2005. Since it took power in 1989, the National Islamic Front (NIF) regime's abusive and repressive behavior has reached into every part of the country, and affected most facets of Sudanese political, economic and social life. As a result, Sudan has been at the center of human rights reporting for many years.

One key aspect of human rights abuse in Sudan is the issue of marginalization. The protracted war in the South has obfuscated, in the eyes of many external observers, the fact that the fundamental tension in Sudan is not between North and South, Muslim and non-Muslim, Arab and African – all which exist – but between Center and Periphery. Geographically, the center is the Nile valley, Khartoum and the other cities of central Sudan. Socially and politically, the center is made up of the interrelated elites who have held both political and economic power for the past 150 years. The periphery on the other hand is the rest of Sudan: the subsistence farmers and herders, mostly African but also Arab, who live on the rural margins – in Darfur, in Kordofan, in the Red Sea Hills and Blue Nile, and throughout the South – whom successive central governments in Khartoum have marginalized since the late 19th century. The marginalized people also include those who have had to move to the center as a result of either violence or grinding poverty. Thus, the predominant root of conflict in Sudan is the instability that results from the systemic abuse of the rural (and recently urbanized) poor at the hands of the economic and political elites of central Sudan.

One of the main instruments of marginalization has been the elite center's control over the periphery's resources, be it land, crops, livestock or, more recently, oil. The center also controls the commercial channels that link the various marginalized populations to the rest of Sudan and the globalized economy beyond it. In Sudan, economic activity has been both a tool of repression and an end in itself.

The lack of research on the interplay between economic activity and human rights violations has contributed to misguided assumptions about political and economic dynamics in Sudan. As with assumptions about the nature of the conflict, certain assumptions prevail about how economic activity plays out in Sudan. The massive agricultural resources of Sudan have led international lenders to advocate mechanized farming as a way to enrich Sudan and to avert famine – but in many cases, such activities have only caused further suffering in the countryside. Another assumption is that peace between the NIF and the Southern rebels will bring prosperity as investors flock back to Sudan. While this scenario has yet to be tested, one aspect of this report is to offer cautionary evidence of the abuses which have followed foreign investment.

With the exception of the oil sector, there is little understanding of how economic activity may drive human rights abuses; of how economic activity benefits from human rights abuses; of how economic activity is used to further abusive social, political and military policies; and of the government entities, corporations, companies and individuals involved, both Sudanese and foreign.

The Coalition for International Justice (CIJ) presents this report as another step at trying to build such knowledge.

Scope of the Report

The report focuses on the two main areas of economic activity in Sudan, one traditional and the other modern: agriculture (with an examination of both the mechanized agriculture and livestock sectors) and oil.[1] The two could not be more different.

Oil: naming names
In Sudan, the oil industry has emerged only recently as a commercial reality. Oil revenue has little redistributive impact on the majority of Sudanese because the poor are numerous and the Sudanese government's spending on them limited.. The population displacement and human rights abuses linked to oil in Sudan have been the subject of a number of in-depth human rights investigations.

Because oil is a modern industry linked to the global economy, far more information on the actors involved in the sector is available outside Sudan, most of it in the public domain: from company websites, company profiles, professional and trade journals, court cases, press reports, and so on.

As a result, the oil section in this report seeks to identify key actors, highlighting, where possible, the role of Sudanese officialdom. It compiles and compares existing public knowledge about how or where individuals and companies involved in the oil industry are connected to human rights abuses. It identifies ominous patterns and *modi operandi* that have emerged from the exploration and exploitation of the oil fields in Sudan.

Agriculture: laying out patterns
The agricultural sector (both farming and livestock), on the other hand, involves a large majority of Sudanese. Agriculture is the primary livelihood of two-thirds to three-quarters of the Sudanese population, according to a variety of sources. Abusive policies and practices, such as imposed mechanized farming and its attendant displacement, therefore have an impact on a very large number of people in Sudan. Agriculture also

[1] In the course of the research, other areas of overlap between human rights abuse and economic began to emerge. These included, among others, abusive gold mining practices; real-estate speculation, especially in Khartoum; labor conditions in the irrigated agriculture sector; the expropriation of small-holders from fertile Nile-side land down-river from Khartoum; the Hamadab dam; and other issues. There is clearly scope for further research in this domain.

binds Sudan together as a country, through trade, agricultural labor and the seasonal movement of herds.

Agricultural activity is far more difficult to track from outside Sudan than is oil. In mechanized agriculture, companies and investors are for the most part not registered outside of Sudan. In fact, many of them are not registered at all, as much of the farming takes place outside the Sudanese regulatory framework. In the livestock sector, much of the trading occurs locally on a scale that is hard to follow from afar; even the large export operations are conducted based on longstanding personal relations between Sudanese and foreign, mostly Saudi, merchants. Because of limited access to Sudan, this report cannot travel the same "follow-the-money" path in farming and livestock as it does with regard to oil.

The agricultural section focuses on non-irrigated mechanized agriculture and livestock. It reviews the human rights gaps in the numerous existing analyses of Sudanese agriculture and underscores the importance of agriculture to the Sudanese economy – a fact at times overshadowed by the emergence of oil. The report lays out how modernization in agriculture in Sudan furthers the interests of the regime at the expense of the rural poor. The NIF regime's actions in the agriculture sector are exposed and shown to continue the policies of previous governments, notably enriching supporters of the regime, but they are also exposed for serving the regime's own military and even ideological strategies. This report illustrates how mechanized agriculture promotion, initially driven by the discredited bread-basket policies of the Nimeiri years, remains in full swing today, and as destructive as ever. It also explores the government's efforts to capitalize on the lucrative livestock sector. Finally, it reviews how the NIF generates communal conflict with policies that impoverish and marginalize the rural poor, and explores who may be benefiting from the massive looting of livestock that has taken place in Darfur since 2003.

Contours of existing research: a need for more in-depth scrutiny

This paper is intended only as a *preliminary* examination of the overlap between commercial activity and human rights abuses in Sudan. We have focused on the NIF regime's economic activities and associated abuses, leaving aside those committed by other groups – the Southern rebel group, SPLM (Sudan People's Liberation Movement) and rebel groups in Darfur. There are several reasons for this. First, it is clear that the National Congress Party (and other elements of what used to be the National Islamic Front) continue to dominate the national unity government in Khartoum. Moreover, traditional economic interests linked to the Umma Party and the Democratic Union Party (DUP), while weakened by a decade and a half of NIF rule, remain strong. Furthermore, international economic investment both in terms of commercial activity in, and international institutional lending for Sudan has largely focused on and interacted with Khartoum. Finally, while the overlap of human rights abuse and economic activity has also existed in the South, conflict, isolation and underdevelopment have resulted in lower levels of economic activity and different patterns of abuse.

The research derives from the authors' substantial experience with Sudan and contacts there, as well as open-source publications and interviews. CIJ's contacts provided us with invaluable insight into how business is conducted in the country, and what abusive consequences have followed from these practices. Much of the information, while extremely elucidating, was based on word-of-mouth and informal interviews with well-placed officials[2]. Where possible, CIJ has identified specific actors, but lack of documentary evidence to corroborate many widely-believed allegations has prevented us from revealing the names of other persons or commercial entities.

Further, comprehensive follow-the-money research will require in-depth access to Sudan, especially with regards to more traditional sectors such as agriculture and livestock where abusers' fingerprints are harder to pick up from a distance. Documentation of practices in the petroleum industry is, on the other hand, plentiful, especially those pertaining to the Western operators. But as Western investment is gradually muscled out by large Asian para-statal oil companies with little or no accountability to stakeholders, investigating the financial underpinnings of abuses in this most well-researched of sectors will become increasingly difficult.

A look towards the future

In early January 2005, the Southern People's Liberation Movement (SPLM) and the Sudanese government signed the Comprehensive Peace Agreement (CPA). The hope is that the agreement would usher in a new era of power-sharing and improve prospects for peace in the region. But as international actors invest in Sudan with the signing of the CPA, more questions arise. Where do international actors fit in the uncomfortable nexus of economic activity and gross human rights abuses? Does peace in Sudan increase the danger that outsiders will support predatory economic activity and violence, wittingly or not? These questions are especially pertinent to the aid and development industry, given its heavy involvement with displaced rural populations and the agricultural sector.

Furthermore, at the time of this writing, peace has not come to Darfur in western Sudan, where wide-spread and systematic atrocities continue. There is also an economic side to the violence, which has been largely unexplored but which this report hopes to highlight in the livestock sector.

International actors in Sudan, both public and private, need to better understand how human rights violations occur as a result of commercial activities and how such activities are used to further abusive policies of political and military control.

Our report presents both answered and unanswered questions in the hope that they further existing knowledge and fuel additional inquiry.

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[2] One major problem with researching in Sudan is that much information is only provided through word-of-mouth – with documentation difficult to come by, and in the case of traditional, marginalized sectors of the Sudanese economy which we have examined – livestock and agriculture – often non-existent.

2. Oil

Introduction

Government promotion and development of the petroleum industry in Sudan has involved massive human rights abuses. Patterns of expulsion and displacement preceding oil contracts and exploration are well-documented. As a matter of course, the Government of Sudan (GoS) removes any and all native inhabitants from land where oil exploration is to take place. This has mostly occurred in the South of the country, traditionally inhabited by non-Arab, non-Muslim tribes, where most of Sudan's proven oil reserves are located. Exploration, however, is slated for other tracts in this huge and largely (petroleum-wise) uncharted country and prospecting has recently extended to the eastern section of the country along the Ethiopian border and in the west, in Darfur and elsewhere along the length of the border with Chad.

The oil industry is perhaps the most widely scrutinized sector of the economy. Human rights organizations have rightly focused on the main abuses associated with the exploitation of the oil fields in Sudan, namely murder, pillage and the expulsion of people from their homes.[3] In effect, the Sudanese government and their allied militias have created *cordons sanitaires*, devoid of human life, in areas surrounding proven oil reserves and those believed to be promising. Over the last decade much attention has been focused on the foreign (largely Western) oil companies operating in Sudan. Information about Western firms tends to be more accessible and they are more susceptible to stakeholder pressure than companies from closed societies.

But the story of oil in Sudan is not confined to these large, Western corporations. The petroleum industry in Sudan is, at root, a tangled enterprise involving a wide array of suspect and criminal activities centered around Sudanese actors – both in government and business – their proxies, and increasingly, powerful para-statal oil companies from China, India and Malaysia. Financial crime, including stock manipulation and money laundering, appears to characterize much of the investment so far. Oil money has been cited as both the motivation and financial source behind attacks against defenseless villages in order to clear the ground for further petroleum extraction. Knowing the players and their histories in the oil sector should provide ample warning for prospective entrants into the Sudanese oil morass.

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[3] The following chapter of *Soil and Oil: Dirty Business in Sudan* builds upon the previous research and publications of many individuals and organizations, often undertaken at personal risk. Since the mid 1990s, human rights abuses linked to the oil industry in Sudan have been extensively documented by human rights advocates, international organizations and various national governments. An array of reports have condemned oil development as the source of exacerbated conflict in Sudan, including those by Human Rights Watch (*Sudan Oil and Human Rights*), the European Coalition on Oil in Sudan, the International Crisis Group (*God, Oil & Country*), Vi-Trade, Amnesty International ("The Human Price of Oil"), Christian Aid ("Scorched Earth"), as well as by the United Nations Special Rapporteurs and the governments of Canada (The Harker Commission Report) and Sweden, to name a few.

During the course of our research, confounding questions arose: Why did the Government of Sudan continually issue concessions to small, unknown, often new and inexperienced companies, which hardly pumped a single drop of oil? Even though oil had been discovered in 1979, it took over 20 years to export the first barrel. Was there some incentive for government officials to discourage actual production and export?

We have attempted to identify key actors, highlighting, where possible, the role of Sudanese officialdom; to compare and compile existing public knowledge about how or where those involved in the oil industry are connected to human rights abuses; and to identify ominous patterns or *modi operandi* that have emerged from the exploration and exploitation of the oil fields in Sudan.

Sudan's oil field development is not unique in providing opportunities for graft, corruption and crime. Yet there are two reasons why the oil industry of Sudan differs from other countries. First, control over oil riches was a central component of the civil war from 1955 to 1972, contributing to renewed fighting in 1983 and becoming the target of much fighting during the late 1990s. It will certainly contribute to new outbreaks of civil war should the current peace agreement collapse. Second, if as most people hope, peace holds and Sudan progresses, large-scale funding will flow into the country. Whether via development aid or private investment, those who have worked in the oil sector will likely attract the lion's share of these funds.

The story we lay out is not always directly linked to human rights abuse. Nevertheless, the Government of Sudan has created and nurtured the conditions that give rise to lawlessness on multiple levels, and such activities must be exposed in order to prevent future abuses. It is not difficult to see how the same environment in which market malfeasance so readily occurs has also spawned such massive government-driven human rights abuses to ensure even greater political control and financial profit for the abusers.

From Chevron to Concorp International

Chevron discovers oil

Onshore petroleum activities began in Sudan in 1975 when U.S. oil giant Chevron was granted a huge concession in several provinces of south-central Sudan, including in Western Kordofan and Western Upper Nile. Initially, the Government tried to direct Chevron to carry out exploration efforts outside the South, but no oil was found. In 1979, Chevron struck oil near Abu Jabra and then al Sharaf, on the border between Darfur and Kordofan. They soon went on to make major discoveries in Western Upper Nile in what is now Block 1, near Bentiu – developing the Muglad Basin and two huge oil fields of Unity and Heglig – both in the South.

In 1980, eight years after a peace agreement halted the decades long North-South conflict (1955-1972), President Jafar Nimeiri attempted to redraw the Upper Nile border to subsume the Bentiu fields into the northern state province of Kordofan. The drafter of the bill was then-Attorney General Hasan al-Turabi, ideological head of what would become the National Islamic Front (NIF).[4] Nimeiri abandoned this attempt after vehement opposition by southerners. Nevertheless plans were announced to build a pipeline from the newly discovered oil fields to Port Sudan on the Red Sea. Along the way some of the oil would be diverted to a refinery to produce fuel for domestic consumption. None of the infrastructure was to be developed in the South and the proceeds from the exports would flow to Khartoum. This aggravated the disputes between North and South at a period when renewed civil war was on the horizon.

Civil war resumes and oil development grinds to a halt

In 1983, civil war broke out between the Khartoum government and southern rebels fighting under the banner of the Sudan People's Liberation Army ("SPLA"). At the same time, inhabitants living near Chevron's Unity and Heglig oilfields were ordered to move by the central government.[5] Attacks by government proxy militias followed. These militias, armed by the government to combat rebel threats to oil development, were composed of Arab cattle-herders (Baggara) of western and northern Kordofan and Darfur, known as *murahaleen* (nomadic raiders).[6] The government gave these Baggara, who themselves were highly-marginalized people, free license to raid the cattle stocks[7] of the inhabitants of the oil-rich areas, who were mostly Nuer and Dinka tribes-people. There were widespread reports of looting, burning of villages and enslavement of children.[8]

In February of 1984, Chevron suspended its operations after three of its expatriate field workers were killed by the Southern rebels of the Anyanya II movement. The government deployed regular military troops to the area, but Chevron reportedly requested the additional formation of a special "Oilfields Protection Force."[9] Unsatisfied with security conditions provided by the Sudanese government, Chevron suspended its operations in the Bentiu region in December of 1985 and by 1988 had dismantled its operations at Unity.

During its tenure, Chevron drilled at least 87 wells, 31 of which were in Darfur or Kordofan.[10] The company spent $880 million[11] and discovered the major oil fields of Unity and Heglig as well as the minor fields further north at Abu Jabra and al Sharaf, but had little to show for these efforts in terms of oil extracted or profits.

[4] International Crisis Group: *God, Oil and Country: Changing the Logic of War in Sudan*, Brussels 2002: p. 100. Also available online at http://www.crisisgroup.org/home/index.cfm?id=1615&l=1

[5] Human Rights Watch: *Sudan, Oil and Human Rights*, New York 2003: p. 105. Also available online at http://www.hrw.org/reports/2003/sudan1103/ Please note that page numbers cited in *Soil and Oil: Dirty Business in Sudan* refer to the published version of the HRW report.

[6] Human Rights Watch (2003): p. 124.

[7] Human Rights Watch (2003): p. 135.

[8] Human Rights Watch (2003): p. 138.

[9] Human Rights Watch (2003): p. 144.

[10] Arab Petroleum Research Centre: *Arab Oil & Gas Directory*, Paris 1993: p. 396.

[11] Economist Intelligence Unit: "Sudan Country Report No. 3," 1992: p. 23.

During the intervening eight-year period between the attacks on their compound until their final pullout in 1992, Chevron faced two competing types of political pressure. The Sudanese government desired to get production going as their balance of payments was failing and Sudan had gone into default with the IMF. At one point the Nimeiri government formed the National Oil Company of Sudan (NOCS) in partnership with Saudi businessman Adnan Kashoggi in an attempt to compel Chevron and other foreign operators to resume exploration, despite the ongoing civil war.[12] After the 1989 coup that brought the National Islamic Front to power, the U. S. administration of President George H. W. Bush reportedly asked Chevron and other oil companies to suspend operations, perhaps as a form of pressuring the new Islamic government.[13] For its part, the new government empowered a southern rebel, but "friend" of the army, Paulino Matiep, as its "oil field guard" whose primary duty was to minimize the presence of the SPLA in oil concession Blocks 1, 2 and 4.[14] Chevron could not have looked lightly on this development. Matiep was a leader of the murderous 1984 raid that had led to Chevron's suspension of operations.[15] Matiep's job became significantly easier in 1991 when Riek Machar (SPLA zonal commander of the Western Upper Nile) broke from the rebel group and formed his own splinter faction (which later became the SSDF). These two southern armed groups (Matiep's and Machar's) thence did not wage war against the GoS, but instead clashed with the SPLA. Later they would clash with each other over control of the oil fields.

In the second quarter of 1990, Chevron relinquished its rights to Abu Jabra and al Sharaf, the minor fields in Darfur/Kordofan.[16] In February 1992 Chevron and Khartoum agreed that both parties could begin the process of identifying potential buyers for the remaining Chevron concessions. President Bashir would later announce that Chevron's exit put an end to the "no-action" situation that had characterized oil development for the past decade.[17]

After Chevron's departure, Khartoum begins to clear the way for oil – with greater violence

With Chevron finally out of the picture, the Government of Sudan began tackling the second obstacle to its control over petroleum reserves, the lingering presence of populations it considered hindrances in the vicinity of the oilfields. In February 1992, the GoS began a campaign of murder, pillage and expulsion against settlements near the oilfields, which included the killing of civilians, the looting of around 500 heads of cattle,

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[12] Federal Research Division of the Library of Congress: Sudan Country Study, website, at http://countrystudies.us/sudan/61.htm

[13] Economist Intelligence Unit: "Sudan Country Report No. 1," 1990: p. 22.

[14] Human Rights Watch (2003): p. 152.

[15] Human Rights Watch (2003): p. 146, citing James Kok, SPDF representative.

[16] Arab Petroleum Research Centre (1993): p. 396.

[17] "Chevron Sells Oil Interests in the Sudan to Local Firm," *Middle East Economic Survey*, 22 June 1992.

the burning of dwellings and forcible expulsion.[18] This campaign coincided with the signing of the Chevron pullout agreement in the spring of 1992.

Concorp buys out Chevron at a huge discount – but fails to produce oil in significant quantities

In June 1992, Sudan's President Bashir announced a buyer for the Chevron concession on national television. It was Concorp International, owned by Sudanese businessman and senior NIF party member, Mohamed Abdullah Jar el-Nabi. Chevron's near-billion dollar investment was sold to Concorp for a mere $25 million.[19] The deal was brokered by Mike Freeny, president of a Bakersfield, California company called Chemex and a representative of Concorp in the United States.[20] The oil minister at the time was Osman Abdel Wahab Sulaiman, and financial backing for Concorp came from NIF-allied businessmen Sheikh Abd-al Basri, Eltayeb el-Nus, and Osman Khalid Mudawi, a general manager of Faisal Islamic Bank.[21] The General Manager of Chevron for its last two years in Sudan, Abdelatif Widatalla, joined Concorp in the number two position after the withdrawal of Chevron.[22] The deal did not occur without controversy. From London, exiled former-Prime Minister Sadiq al Mahdi's Umma Party criticized the sale, claiming that Concorp and el-Nabi were NIF fronts.[23]

Concorp International was formed in 1976 and has worked in Sudan, the United States, Uganda, Chad, the United Arab Emirates, India and Saudi Arabia. Its main activities were in construction of roads, bridges and buildings, including fifteen years of experience building schools in Saudi Arabia, but, as the Economist Intelligence Unit noted in 1992, Concorp's "little oil experience" was mainly confined to development of the small Abu Jabra field.[24] According to Corcorp's website, it "ventured into" the oil business in 1991 by purchasing three refineries. In Concorp's own words, its "success" in refining apparently "qualified it to negotiate and buy out Chevron Oil company of Sudan in

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[18] Harker, John : *Human Security in Sudan: The Report of a Canadian Assessment Mission*, Ottawa January 2000: p. 10.

[19] "Chevron Sells Oil Interests in Sudan to Local Firm," *Middle East Economic Survey*, 22 June 1992. Chevron also received "compensation in the form of a 90 percent tax credit from the U.S. government." See Economist Intelligence Unit: "Sudan Country Study No. 3," 1992: pp. 23-24.

[20] Concorp Press Release, 15 June 1992, and E-Mail from Chemex to CIJ, 17 October 2005. Bakersfield is a center for oil production in California, and Concorp International is registered to do business there as Afcorp.

[21] Burr, J. Millard and Robert O. Collins: *Revolutionary Sudan: Hasan Al-Turabi and the Islamist State, 1989-2000:* p. 235.

[22] Embassy of Sudan, Washington, D.C., website, at http://www.sudanembassy.org/contemporarylooks/concorp.htm

[23] "Opposition to Sale of Chevron's Petroleum Assets in the Sudan," *Middle East Economic Survey*, 29 June 1992.

[24] Economist Intelligence Unit: "Sudan Country Study No. 3," 1992: p. 24. Also see Concorp, website, at www.concorp.net/profile.html (last accessed 1 December 2005).

1992."[25] Apparently one year of operating in the industry was enough experience for the Government of Sudan to trust Concorp to inherit Chevron's mantle - and control over a large portion of country's petroleum future.

The president of Concorp is Mohamed Abdullah Jar el-Nabi, from Darfur.[26] He was an early member of the Muslim Brotherhood in Sudan and was arrested for leading demonstrations at Khartoum University during the late 1960s.[27] He was also reported to have been a NIF parliamentary candidate in 1986,[28] and has close ties to Hasan al-Turabi, even establishing the Hasan al-Turabi center in Kampala, Uganda.

Meanwhile, in July 1992, the Government of Sudan announced that Abu Jabra and al Sharaf, the oil fields which had been relinquished by Chevron in 1990, were ready for production. Concorp International had rapidly brought these fields into production, even opening a topping plant in Abu Jabra.[29] On the surface, it appeared as if Concorp International had done in one year what Chevron had failed to do in the previous eighteen years: they took over vast concessions areas and put them into production. The reality was far less impressive. Between June 1992 and August 1993, however, with the exception of the Abu Jabra and al Sharaf fields which produced about 2,000 barrels per day, Concorp appears to have made no progress in developing the most promising oil fields under its control.[30] With proper investment, Unity and Heglig fields were capable of producing 40,000 barrels per day and potentially up to 300,000 upon the completion of the pipeline to the Red Sea.[31] Yet nothing happened to these areas on Corcorp's watch - at least, nothing productive.

At this point the Government of Sudan began to create a *cordon sanitaire* – that is, an area completely devoid of civilian life, stretching for kilometers beyond each oil rig, oil road and piece of equipment[32] around these potentially rich oil fields. As noted above, beginning half way through the dry season of 1991-92 and restarting in November 1992

[25] Concorp, website, at www.concorp.net/profile.html (last accessed 1 December 2005).

[26] *The Black Book: Imbalance of Power and Wealth in the Sudan*" (written and disseminated by what later became one of the Darfur rebel groups, the Justice and Equality Movement) lavishes praise on el-Nabi: "In sharp contrast to Hashim Haju, the Sudanese businessman Mohamed Jar Alnabi who is from the Western Region had to struggle exceptionally hard to survive with the regime. His effort to establish an oil refinery; a strategic acquisition at the time did not endear him to the system. Had it not been for his resilience, he would have been driven into exile like the Ex-Governor of Darfur, Ibrahim Draig." Available at: http://www.sudanjem.com/english/books/blackbook_part1/20040422_bbone.htm (last accessed 1 December 2005).

[27] El-Effendi, Abdelwahab: *Turabi's Revolution: Islam and Power in Sudan*, Grey Seal Books, London, 1991: pp. 105-06.

[28] "Controversy Surrounds Arakis' Sudan Venture," *Middle East Economic Survey*, 21 August 1995.

[29] "Topping Plant on Stream in South Sudan," *Middle East Economic Survey*, 24 August 1992.

[30] Economist Intelligence Unit: "Sudan Country Report, No. 3," 1992.

[31] "Arakis Energy To Develop 64 Million Acres In Republic Of Sudan For Oil Production," *PR Newswire*, 7 December 1992.

[32] Human Rights Watch (2003): p. 191.

(and continuing through the whole of the dry season of 1992-93) government forces together with Arab *murahaleen* allies began an offensive of looting, burning and abduction, resulting in the destruction of at least 57 hamlets in the Heglig area.[33]

In August 1993, however, Concorp suddenly sold its concession in Sudan.[34] Some press accounts reported that Concorp turned the concession over to the government.[35] If so, the government lost no time in re-selling the acreage to State Petroleum of Vancouver, Canada (SPC), as they are recorded as the owners, literally in the same month,

Concorp was not out of the picture yet, and next appeared in 1995 as a minority shareholder in Gulf Petroleum Sudan alongside Sudanese state-owned Sudapet and the majority shareholder, Gulf Petroleum of Qatar. This concession is currently owned by Petrodar (covered below). Concorp also carried on in the refinery business. As part of the celebration of ten years of his rule, President Bashir inaugurated Concorp's new refinery in Khartoum on June 29, 1999.[36]

Concorp's President, Mohamed Jar el-Nabi, also remained busy. In 1999, el-Nabi attempted to help his country in other ways besides financing oil deals. With his large-scale investments in Uganda, the Sudanese businessman reportedly tried to mediate between the governments in Kampala and Khartoum which had long been at loggerheads over Kampala's support to the SPLM.[37] His activities, however, may not always have been so benevolent. According to the sworn testimony of the U.S. government's star witness in the trial of the 1998 East African embassy bombers, a former Sudanese intelligence officer and member of al Qaeda, Jamal al Fadl, a certain Mohamed Jara al Nabi was an active participant in an al Qaeda weapons smuggling scheme.[38]

SPC and Arakis

Sudan entrusts its oil future to Canadian oil industry neophytes

In December 1991, months before the government forced Chevron to sell to Concorp, a group of oil industry neophytes traveled from Vancouver, British Columbia to Khartoum in order to seek their fortune in the oil fields of Sudan. Their company, State Petroleum Corporation (SPC) had been incorporated in Vancouver, British Columbia in November

[33] Harker (2000): p. 10.

[34] Concorp, website, see www.concorp.net/profile.html (last accessed 6 December 2005)

[35] "Controversy Surrounds Arakis' Sudan Venture," *Middle East Economic Survey*, 21 August 1995.

[36] Concorp, website, at www.concorp.net/profile.html and "New Topping Plant Inaugurated Near Khartoum," *Middle East Economic Survey*, 12 July 1999.

[37] "Sudanese Businessman Seeks to Mediate Between Sudan, Uganda," *Agence France Presse*, 22 July 1999.

[38] *United States v. Usama Bin Laden*, S(7)98 Cr. 1023(LBS), 2001 U.S. Dist. LEXIS 15484 (S.D.N.Y. 2001), (1998 Embassy bombing trial), transcript, day 2, 6 February 2001. Sudan and its leaders Turabi and Bashir hosted Usama Bin Laden and al Qaeda from 1991 to 1996. There were extensive business dealings between Bin Laden and Sudanese companies, public and private, as well as terror training camps, and Sudanese government-sponsored export of al Qaeda terror plots.

1991, just weeks before the Canadian businessmen's trip to Sudan. The founder was Lutfur Rahman Khan. Together with family members, friends and acquaintances, Khan, originally from Pakistan, created SPC.[39] Incredibly, they succeeded in their attempt to enter the market. As their leader, L. R. Khan said after several trips and "establishing favorable relationships" they signed a 25-year Production Sharing Agreement with the Government of Sudan.

According to an affidavit filed in a case before a British Columbia Superior Court by Yasin Muhammad, another Pakistani-Canadian who claims to have provided the start-up funding for SPC's Sudan venture, initial interest in Sudanese oil fields began as early as April 1991, initiated by the Government of Sudan in a letter to Khan.[40] Muhammad explained that the Sudanese had been prompted to contact Khan at the entreaty of two Americans, Muzzaffar Zafar and Imam Daoud Abdel Malik. Abdel Malik, an American from Cleveland, confirmed this account in an affidavit in the same court case. Malik claimed that he was asked to help find business investors for Sudan (presumably because of his connections with Sudanese Government officials) and he noted, "I am known and friendly with a number of ministers and senior officials of the Sudanese government because of my work with the charitable organization ASHAD."[41] Zafar and Daoud were part of the SPC delegation which traveled to Khartoum in December 1991.[42]

There has been other speculation as to how an obscure and unproven Canadian company managed to win the confidence of the Sudanese authorities. According to some researchers, Lutfur Khan may have been close to Qutbi al Mahdi,[43] a senior member of the Foreign Ministry at the time, an ambassador to Iran, and later Minister of External Security. Khan claims he has never heard of Qutbi al Mahdi.[44] One of the principal shareholders of SPC was Zayed Jan Kiani,[45] who according to an Arakis official worked for Triad Investment, a company owned by Saudi businessman Adnan Khashoggi. Khashoggi had previously been involved in Sudanese oil during the Nimeiri era and Triad was an original source of funding for SPC.

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[39] Baines, David: "Tale behind Arakis shares in State Petroleum deal," *Vancouver Sun,* 1 August 1995 and Arakis Energy, Information Circular, June 1997.

[40] Affidavit of Yasin Muhammad, Supreme Court of British Columbia, Action A940840, 18 March 1994.

[41] Affidavit of Imam Daud Abdel Malik, Supreme Court of British Columbia, Action A940840, 16 April 1994. ASHAD stands for African Society for Humanitarian Development which had been founded in Sudan the previous year.

[42] Affidavit of Yasin Muhammad, Supreme Court of British Columbia, Action A940840, 18 March 1994. The lawsuit was brought against SPC, Khan and other shareholders of SPC by Yasin Muhammad. Muhammad claimed he was entitled to up to $15 million for helping SPC win the concession in Sudan. The suit was eventually settled with a payout from SPC/Arakis to Muhammad.

[43] Burr, J. Millard and Robert O. Collins: *Revolutionary Sudan: Hasan al Turabi and the Islamist State, 1989-2000,* p. 235.

[44] E-mail correspondence from L. R. Khan to CIJ, 30 November 2005.

[45] *In the Matter of Arakis Energy Corporation*, Document #1998/05/11, British Columbia Securities Commission, Agreed Statement of Facts and Undertaking, 11 May 1998.

On August 24, 1992 SPC signed a 'letter of understanding' with Hussein Khogali, aka Hussein Khawajli, an editor of *al Alwan* and reportedly a close associate of Hasan al-Turabi. Khogali was hired to be SPC's local agent and to provide an introduction and other 'activities leading up to the signing of a production sharing agreement. . ."[46] Khogali later filed legal action in Khartoum against SPC seeking over $14 million for his services. A Khartoum judge ruled in Khogali's favor and SPC appealed, claiming he had been fully compensated according to British Columbia law, where the contract had been signed. SPC eventually paid Khogali $65,000 Canadian.[47] Lutfur Rahman Khan recently wrote, however that:

> There was no relationship between our Company and Mr. Khogali. He was one of the many small businessmen trying to get close to the Company to get some benefits - a lot of local people tried to make friends with the Company personnel to get small contracts of local supplies, transport or employment etc.[48]

Khan has emphatically denied SPC's involvement in any type of kick-back scheme, as well as denying that Khogali's role may have been to provide money to Sudanese officials. "We never paid any cash to any government official," he told CIJ.[49]

Sudan signed a memorandum of understanding with SPC and SPC's new partner, Arakis (described below), on December 7, 1992. Despite the fact that Concorp still held the rights to these same oil fields, and would do so for another nine months, SPC/Arakis somehow claimed they had received preliminary approval from the World Bank for their venture and that they would be producing 40,000 barrels per day within eighteen months.[50] Most ominously, however, Arakis claimed that it would succeed where Chevron had failed as it would "negotiate military protection into the agreement."[51] At the same time, the Sudanese Oil Minister Osman Abdel Wahab signed an oil agreement with Saddam Hussein's Iraq in which Iraq would provide technical assistance for the same oil fields slated for SPC/Arakis.[52] L. R. Khan noted that SPC did not undertake any work with Iraqis in Sudan, nor was he even aware of the agreement between Sudan and Iraq.[53]

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[46] Arakis Energy, Management Info Circular, 3 September 1998: p. 58. Available online at http://sedar.com/csfsprod/data11/filings/00121816/00000001/s%3A%5Cc4%5C696%5Csedar%5C3676cl05.pdf

[47] Arakis Energy, Management Info Circular, 3 September 1998: p. 58; see also, State Energy Corporation, Preliminary Prosepectus, 27 April 1998.

[48] E-mail correspondence from L. R. Khan to CIJ, 26 October 2005.

[49] E-mail correspondence from L. R. Khan to CIJ, 30 November 2005.

[50] "Little-Known Firm In Canada Granted Sudan Properties," *Platt's Oilgram News*, 8 December 1992. L. R. Khan told CIJ in an e-mail that Concorp held a different concession.

[51] "Little-Known Firm In Canada Granted Sudan Properties," *Platt's Oilgram News*, 8 December 1992.

[52] "Iraq to Help Sudan Develop Oil Industry," *Xinhua*, 14 December 1992.

[53] E-mail correspondence from LR Khan to CIJ, 30 November 2005.

As noted in the Concorp section above, the Government of Sudan launched an expulsion campaign around the former Chevron oil fields in February 1992. With the onset of the dry season in the fall of the same year, the Sudanese government and their Arab militias resumed their campaign of terror and expulsion against the remaining population near Heglig, the best prospect in the new SPC concession. The violent raids lasted for five months until April 1993.[54] At the beginning of the next dry season, December 1993, the Government and its militias began another expulsion campaign in the Heglig area in preparation for what they hoped would be rapid expansion of oil production.[55]

Simultaneously, fighting between the Riek Machar faction and the SPLA in 1993 closed down feeding centers and forced the evacuation of relief workers, triggering a famine in what became known as the "hunger triangle" of the Upper Nile.[56] In late August 1993, SPC and Arakis concluded a formal Production Sharing Agreement with Sudan.

Arakis

The Vancouver Stock Exchange (VSE) has long been known as a haven for financial sharks and swindlers. An article about the VSE, published in May 1989 in *Forbes* magazine was entitled "Scam Capital of the World." The article opened, "Like most large North American cities, Vancouver has a serious garbage disposal problem, but this one is unique. The garbage is the Vancouver Stock Exchange. It is polluting much of the civilized world."[57]

J. Terry Alexander had worked the VSE since the late 1960s. He promoted gold and diamond mines, natural gas discoveries, breakthrough medicines and marine containers. Alexander launched several business ventures through his Arakis Capital Corporation.[58] In June 1992, the same month in which Concorp and Chevron finalized their deal, Arakis, now called Arakis Energy, announced it had a letter of intent to buy State Petroleum Corporation (SPC) and would invest in the oil fields of Sudan.[59] Alexander, a very experienced promoter, immediately began hyping the investment. As noted earlier, Arakis attempted to cloak the process with the imprimatur of World Bank backing, as the company sought a $50 million loan from the Multilateral Investment Guarantee

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[54] Harker (2000): p. 10.

[55] Harker (2000): p. 11.

[56] Human Rights Watch (2003): p. 157; see also, "UN Intensifies Effort to Get Food to Sudan," *Chicago Tribune*, 16 April 1993.

[57] Queenan, Joe: "Scam Capital of the World", *Forbes Magazine*, 29 May 1989: p. 132.

[58] Schreiner, John: "Alexander's Stable of Firms is Affected by Arakis Angst," *The Financial Post*, 26 August 1995.

[59] "Signs Letter of Intent to Acquire State Petroleum Corp." *S&P Daily News*, 30 June 1992.

Agency,[60] informing the press that it had begun preliminary discussions with the Bank's International Finance Corporation.[61] At the time, officials from the World Bank were quick to caution that no substantive discussions had taken place and that there were "many hurdles left for IFC to possibly be involved in this project."[62]

Arakis announced that Triad Investment, a company owned by billionaire Saudi businessman Adnan Kashoggi, would provide the first $25 million of a projected $250 million of financing.[63] As reported by Arakis, their contact in Triad Investment London was Pakistani -- Zayed Jan Kiyani.[64] It was later discovered that Zayed Kiyani was also an original shareholder of SPC.[65] J. Terry Alexander primarily served as the fund-raiser, a task at which he excelled. Alexander used the mechanism of "private placement" by which shares of a company are traded privately rather than on the stock exchange. He established front companies in tax avoidance and money-laundering jurisdictions such as Jersey, British Virgin Islands and Liechtenstein and then made private placements of Arakis stock to them. After 'talking' the stock up he would shift the 'privately' held shares into a trading account with another Jersey holding company and have that company put the shares onto the openly traded stock exchange. This activity was both highly successful and in contravention of British Columbia securities regulations. Alexander managed to trade some 23 million Arakis shares via offshore companies which he secretly controlled before the British Columbia Securities Commission ("BCSC") eventually caught up with him.[66] Alexander was fined $1.2 million, the highest fine ever levied by the BCSC to that point. His net profits from privately buying low and selling high the 23 million shares have never been disclosed.

Beginning in 1989 and picking up after the Sudanese announcements in 1992, Arakis made private placements of shares to several Bahamas/Channel Island registered companies.[67] This subterfuge accomplished two things: First, it made it appear as if investors were actually interested in Arakis; and second, it obscured the real owner of these shell companies, J. Terry Alexander. No new money was flowing into Arakis – only the illusion of it, in order to demonstrate to the potential investors in Arakis on the Vancouver Stock Exchange that they were not alone in giving their money to Alexander.

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[60] Economist Intelligence Unit: "Sudan Country Study 2nd Quarter," 1993: p. 25.

[61] "Tiny, Little-Known Arakis Seeking New Financing," *Platt's Oilgram News*, 25 January 1993.

[62] "Tiny, Little-Known Arakis Seeking New Financing," *Platt's Oilgram News*, 25 January 1993.

[63] "Receives Commitment for Funding of Sudanese Oil Project." *S&P Daily News*, 29 July 1992.

[64] "Tiny, Little-Known Arakis Seeking New Financing," *Platt's Oilgram News*, 25 January 1993.

[65] British Columbia Securities Commission: Agreed Statement of Facts and Undertaking, Arakis Energy Corporation, Document #1998/05/11.

[66] British Columbia Securities Commission: Agreed Statement of Facts and Undertaking, James Terrence Alexander, Document #1999/02/23.

[67] Baines, David: "Around the World with Arakis: VSE Stock Deals Often Conducted in Tax Havens' Veil of Secrecy: ARAKIS: Spanning the Globe with Deals," *Vancouver Sun*, 2 September 1995.

Alexander continued selling shares to Channel Island shell companies, again to give the illusion of global investor interest, and in June 1993, Arakis began trading on the NASDAQ exchange in New York. While Alexander founded the companies in havens of corporate secrecy such as Jersey and the Bahamas, a complete listing of shareholders has never been released. It may have only been J. Terry Alexander himself. L. R. Khan said he was not aware of any Sudanese person holding shares in these firms.[68]

SPC/Arakis actually had a real office in downtown Vancouver. There, Arakis' links to the NIF were put on prominent display. Prospective investors visiting the office could see photos of L. R. Khan with Sudan's President Bashir and NIF ideological leader Hasan al-Turabi.[69]

Meanwhile, on the ground in Sudan, from the time that SPC/Arakis took over the operation of the concession in August 1993, until Chinese involvement began in November 1996, there is little evidence that the oil fields were actually being developed. According to L. R. Khan, within eight months of taking on the concession, SPC had spent $10 million on development.[70] By 1996, SPC/Arakis was able to secure the participation of a new set of powerful partners, the governments of China, Malaysia and Sudan. At the time, SPC/Arakis boasted that they had already invested $125 million in developing their concession. However, with average production of approximately 3,200 barrels per day (begun, only weeks before the consortium was established) the results were less impressive.[71]

For its part, SPC/Arakis had complained that one of the limiting factors to increasing production was lack of trucking capacity and limited transportation during the wet season.[72] During 1993, Arakis had begun using a Sudanese trucking firm called Regions International Investment Company (RIICO). Arakis purported that it was one of the largest trucking companies in Sudan.[73] SPC/Arakis thought highly enough of the trucking firm that in December 1994 negotiations began with the parent of RIICO, the Arab Group International for Investment and Acquisition Co. Ltd. ("AGI"), to provide investment capital for the Sudan oil project. The Chairman of AGI was His Highness Prince Sultan Bin Saud Bin Abdullah Al Saud of Saudi Arabia. Others affiliated with AGI were Abbas Salih, Managing Director, and Haroun Hamid Haroun, the business manager.[74]

[68] E-mail correspondence from L. R. Khan to CIJ, 26 October 2005.

[69] Baines, David**: "**Arakis Puts Profits Before Lives, Group Charges: BAINES: 'Only a Facade for NIF,'" *Vancouver Sun,* 25 July 1995.

[70] Affidavit of Lutfur Khan, Supreme Court of British Columbia, Action #A940840, 8 April 1994.

[71] State Energy Corporation: Preliminary Prospectus, 27 April 1998.

[72] State Energy Corporation: Preliminary Prospectus, 27 April 1998.

[73] Arakis Press Release, 2 September 1995.

[74] Arakis Press Release, 2 September 1995.

AGI's managing director, Abbas Salih, is a former pilot in the Sudanese Air Force. He first entered international business with a German firm, contracted to build schools in Saudi Arabia.[75] In 1989, at the time of the coup in Sudan, he formed RIICO, whose primary business is trucking and is involved in the transportation of petroleum and food aid in Sudan.[76]

In July 1995, Arakis announced that AGI would become the principal financial backer of its Sudan oil venture. Arakis claimed that AGI was a Saudi company with investments in Sudan including a $2 billion housing project in Khartoum and a $150 million project on the Red Sea coast. Not surprisingly, Arakis' share price on NASDAQ soared. In February 1995, the price was Canadian $ 4.75. Just after the AGI announcement in July, the price had increased nearly 700 percent to C$33, valuing Arakis at around C$1.8 billion.[77]

There are conflicting accounts about AGI, with the *Middle East Economic Survey* reporting that AGI was not backed by the Saudi royal family and *Africa Confidential*, another respected publication, claiming in fact it was. It could be that both were right.[78] On August 5, 1995, there was a Saudi government shuffle. Oil Minister Hisham Nazir, a reported supporter of AGI and their financing plan, was replaced.[79] Shortly thereafter, AGI financing for SPC/Arakis fell through and, in the resulting uproar, the share price plummeted. Arakis was suspended from trading on NASDAQ and de-listed from the Vancouver Exchange. One month later, Arakis, after admitting that its Saudi funding had collapsed, was allowed by NASDAQ to re-open trading**.**[80]

Despite the collapse of Saudi funding for Arakis, Alexander and others had nonetheless succeeded in creating heightened awareness of Sudanese oil.[81] Even if Arakis was perceived as a fraud, any analyst or investor looking into the issue would likely conclude that there really was a lot of oil in Sudan.

The heightened awareness brought on by Arakis' self-promotion brought new players into the oil field pressure cooker. In July 1995, the Inter-Church Coalition on Africa, long involved in pointing out the NIF's human rights abuses, began scrutinizing the

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[75] Strategic Internet Investments Inc. Form 10-K, EDGAR (Electronic Data Gathering and Research**),** 31 December 2003. Note el Nabi was also said to have made money building schools in Saudi Arabia. See Concorp section above.

[76] Masdar, website, at http://www.masdar.com/su13.htm

[77] Baines, David: "Arakis Energy's Stock Surge Cause for Some Concern," *Vancouver Sun*, 20 July 1995.

[78] "Controversy Surrounds Arakis' Sudan Venture," *Middle East Economic Survey*, 21 August 1995 and "Sudan's Plan to Produce Oil Has Been Saved from Near Collapse (Again) by a Massive Cash Injection by Saudi Arabia's Royal Family," *Africa Confidential*, 21 July 1995.

[79] Baines, David: "Arakis Energy's Shares Tumble on Enormous Volume: BAINES: All Hell Breaks Loose: Bloomberg Noted Defaulted Loans," *Vancouver Sun*, 3 August 1995.

[80] Baines, David: "Arakis Stirring Again as Nasdaq Trading Resumes: 'Only Thing Missing is the Pipeline'," *Vancouver Sun*, 23 September 1995.

[81] Economist Intelliegence Unit: "Sudan Country Report, 4th Quarter," 1995: p. 21.

activities of Arakis.[82] "With Arakis investment dollars, the Sudanese regime will receive huge amounts of money which it can use to prolong the country's devastating civil war and maintain its repressive state security apparatus," the group claimed in a press release.[83] Alexander however, attempted to downplay the civil war in Sudan: "There are brief skirmishes," he said "but it is mostly a civil dispute within different tribes in the south as they vie for domination, feeding grounds, or a better agricultural area. In any case, it does not involve our project."[84] The SPLA later threatened Arakis should they pursue the oil venture.[85]

Alexander, CEO of Arakis, continued to defend his business partner, Sudan: "We don't see any risk there. People have a different vision of Sudan than it really is. It's a very liberalized modern society within the context of the Arab-African world."[86] Only a few days earlier however, he noted, "We don't have an ideological vision of Sudan. We are an oil company."[87]

In the second half of 1996 there were rumors that Arakis would bring in new investors, including Occidental Petroleum. (An exemption to U.S.-imposed sanctions had been given to potential U.S. investors, though Occidental was the only serious candidate.) Talisman Energy, another Canadian company and the eventual purchaser of Arakis two years later, was also in the running in 1996 to invest in the new joint venture.[88]

Once again, the Sudanese government used the transition period between outgoing and incoming oil companies' control of fields to embark on a campaign of attacks and abuse against persons living in the area. At the same time, Khartoum had set in motion developments which would later ignite renewed conflict in the southern oil fields.

In April of 1996, the GoS and the Riek Machar faction signed a political charter which formally neutralized the threat of rebel forces to SPC/Arakis' oilfields in the West Upper Nile/Unity State. In return for loyalty to Khartoum, Machar was appointed Minister for the Southern States, replete with a Khartoum office.[89] With the Riek Machar faction no longer a threat to its military operations, the GoS had an opportunity to act with greater impunity to clear the way for oil drilling. Despite the pact, Riek Machar's 9,000 troops in Western Upper Nile near Bentiu continued to trouble Khartoum, which courted the militia of Paulino Matiep to counterbalance Machar's forces for control over the oilfields.

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[82] Baines (25 July 1995).

[83] Baines (25 July 1995).

[84] Baines (25 July 1995).

[85] "Sudanese Opposition Groups Threaten Arakis Interests in Sudan," *Middle East Economic Survey*, 14 August 1995.

[86] "Arakis Shares Slip Amid Threats from Sudan Mercenary Groups," *Bloomberg*, 15 August 1995.

[87] Baines (25 July 1995).

[88] Arakis Energy Corporation: Management Information Circular, 3 September 1998: p. 11.

[89] Amnesty International: "Sudan: The Human Price of Oil," (3 May 2000). Available online at http://web.amnesty.org/library/print/ENGAFR540012000

In October of 1996, at the beginning of the dry season, the GoS and its *murahaleen* allies launched an offensive that displaced thousands north of Bentiu (Heglig) in the El Toor area of Western Upper Nile into "peace camps" in Athonj[90] and Pariang, the latter a future site of Talisman Energy's humanitarian projects.[91] El Toor was one of the areas which SPC/Arakis claimed to have developed.

By November 1996, a consortium of Chinese, Malaysian and Sudanese para-statal oil companies (CNPC, Petronas and Sudapet, respectively) joined SPC/Arakis. In exchange for a majority interest, the Chinese and Malaysians bankrolled all new development expenses. Arakis maintained a 25 percent share of the concession due to the investments it had made to date, and the government-owned Sudapet got a free ride and was required to contribute nothing, financially. As part of the Exploration and Production Sharing Agreement (EPSA), the Government of Sudan received $6 million, which the EPSA labeled as a bonus.[92] On June 1, 1997 the consortium, calling itself the Greater Nile Petroleum Operating Company (GNPOC) formally took over the concession. While receiving a pass on financial investment, the true contribution of the Sudanese government to the consortium may have been to clear the path, with violence if necessary, for what they hoped would finally be production of major quantities of oil.

By July 1998 the Chinese and Malaysians had met their investment targets. When it came time for Arakis to begin contributing to the operations, they could not hold up their end of the financing. Arakis began looking for someone to buy out its stake. In mid-August, 1998, another Canadian firm, Talisman Energy, formerly BP Canada, absorbed Arakis.[93] Arakis shareholders received one Talisman share for every ten Arakis shares they held. The value of Talisman at the time meant that Arakis shareholders received $296 million worth of Talisman shares.[94] In describing the proposed deal to its shareholders, Arakis made a blunt but nevertheless startling admission about "risk factors relating to petroleum operations in Sudan":

> The oil and gas regulatory regime in Sudan is defined almost entirely by contracts with the Government which grant rights to explore, develop and produce hydrocarbon reserves authorized pursuant to the *Petroleum Resource Act*. Most contractual rights with respect to public resources, contracts and expenditures are awarded on the basis of negotiation with individuals within the Government. *Continuation of positive relations may be dependent on the continuation of the Government's favour toward the individual which negotiates any particular contract*. Regulations with

[90] Harker (2000): p. 11.

[91] Harker (2000): p. 11; Talisman Corporate Social Responsibility Report 2001, available online at http://www.talisman-energy.com/pdfs/csr2001_report.pdf

[92] Arakis Energy Corporation: Information Circular, 25 June 1997: p. 89.

[93] Arakis Energy Corporation: Material Change Report, 8 October 1998.

[94] Arakis Energy Corporation: Management Information Circular, 3 September 1998: p. H-10.

> respect to exploration and production operations do not exist, but may be developed and enacted. *There can be no assurance that any such regulatory enactments will not have a materially adverse effect on the Project or the revenues* generated therefrom.[95] (Emphasis added.)

In essence, Arakis conceded that if Sudan moved towards an enforceable regulatory scheme and away from a patronage system which depended on relationships with individuals, then profits might not be guaranteed. This statement provides great insight into how the oil business is conducted in Sudan. The economic future of Sudan, so heavily invested in its petroleum wealth, was being tied up in agreements made by individuals in the Government who doled out contracts to those who had curried their favor.

For years, the Canadian oil companies Arakis and Talisman have absorbed the brunt of the criticism from the human rights community regarding oil in Sudan. There are practical reasons for this, not the least of which were the Canadian companies' concerns about public perceptions and their better ability to skirmish with activists in the human rights field. What seems to have eluded many is that another company, the Chinese para-statal, China National Petroleum Company (CNPC), was the driving force which turned a disputed oil field from an unfulfilled twenty-year promise into a huge money-maker, radically shifting the economic and political status of Sudan. The CNPC transformed Sudan from an economic basket case into the top 20 rank of the world's largest oil exporters. The process, however, was strikingly abusive.

GNPOC

Greater Nile Petroleum Operating Company and the Role of China

GNPOC was registered in the Indian Ocean tax haven of Mauritius in 1997.[96] The shareholders are China National Petroleum Company (CNPC) at 40 percent, Malaysia's Petronas 30 percent, Arakis 25 percent and Sudapet 5 percent. While some claim that Khartoum imposed CNPC and Petronas on Arakis, the results (at least from the perspective of oil production) seem to validate the Sudanese government's judgment.[97] The Chinese company took over operational management of the project from Arakis and the new head of the operation from November 1996 was CNPC's Zhou Jiping.[98]

After 20 years, the oil finally begins to flow

Early in 1997, three Chinese seismic oil exploration crews were brought from a CNPC subsidiary, the Bureau of Geophysical Prospecting, to work in Sudan for GNPOC.[99]

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[95] Arakis Energy Corporation: Management Information Circular, 3 September 1998: p. 62.

[96] ONGC Videsh, website, at http://www.ongcvidesh.com/op_sudan.asp

[97] *Africa Intelligence*, 17 January 1997. For Arakis' spin on the process see, Arakis Energy Corporation, Information Circular, 25 June 1997. Mr L. R. Khan of SPC/Arakis said there was no pressure from the government. E-mail from L. R. Khan to CIJ, 30 November 2005.

[98] PetroChina, website, at http://www.petrochina.com.cn/english/gsjs/zjp.htm

[99] http://web.archive.org/web/19990827035519/www.cnpc.com.cn/bgp/seismic3.htm

Another large contract was issued to another wholly owned subsidiary of CNPC, the China Petroleum Engineering & Construction Company (CPEEC) in February 1997 for the development of the Heglig oil fields.[100]

In January 1998, GNPOC signed over $1 billion worth of contracts with Chinese, Malaysian and European suppliers to provide goods and services, including building a pipeline to the Red Sea. CNPC's CPEEC won the contract to construct the pipeline and work began on May 1, 1998 with the arrival of the first 2,000 Chinese workers.[101] UK-based companies Rolls Royce and Weir Pumps[102] provided engines and pumps for the pipeline. They partnered with Sudanese conglomerate DAL Engineering, part of the DAL group owned by Osama Daoud Abdel Latif and his family.[103]

By mid-December 1998, 1,100 kilometers of pipe had been laid and the whole project was ahead of schedule.[104] In May of 1999, just as the pipeline was completed, an offensive on the eastern edge of Heglig was carried out by the Sudanese army displacing one to two thousand civilians. The United Nations Special Rapporteur noted reports by observers of government bombers, helicopter gunships, tanks and artillery used against unarmed civilians to clear a 100-kilometer swath around oilfields.[105]

The pipeline's formal inauguration and the first delivery of 600,000 barrels for Shell (Eastern Petroleum. Pte. Ltd.) took place on August 30, 1999.[106] The opening ceremony was attended by numerous dignitaries including President Bashir (in military fatigues), Hasan al-Turabi, and the Iraqi oil minister.[107] Sudan had just been transformed from being dependent on foreign supplies for energy into an oil exporter.

In response, SPLA leader John Garang announced that the pipeline, oilfields, and oil company workers would be regarded as legitimate military targets.[108] On or around

[100] "Sudan Consortium Awards CPECC Contract for the Development Of The Heglig Field," *Middle East Economic Survey*, 10 February 1997.

[101] "China Set to Undertake Oil Pipeline Project in Sudan," *Xinhua*, 14 April 1998.

[102] Stokes, Paul: "Weir Lands 20m Pound Pipeline Contract", *The Scotsman*, 19 February 1998 . This was Weir Pump's largest contract ever. Two of Weir Pump's sister organizations signed contracts with Iraq under the Oil for Food program and paid over $5 million in illicit kickbacks to the Iraqis. To its credit the Weir Group admitted making the payments in "addition to normal commissions"-- in contrast to the over 2000 other companies that were found by the Volker Commission to have made similar payments to Saddam Hussein's Iraq (Weir Group: Press Release, Oil-for-Food Programme Contracts, 22 July 2004).

[103] DAL Group, website, at http://www.dalgroup.com/engineering/index.htm

[104] "China Completes 1,110 km Oil Pipeline Project in Sudan", *Asia Pulse*, 14 December 1998.

[105] United Nations (Special Rapporteur Leonardo Franco), "Report on the Situation of Human Rights in the Sudan", October, 1999, para. 77

[106] Human Rights Watch (2003): p. 232.

[107] Human Rights Watch (2003): p. 229.

[108] Amnesty International (3 May 2000).

September 20, 1999 the first sabotage was conducted against the pipeline,[109] reportedly by NDA insurgents, who blew up a section 350 kilometers north of Khartoum.[110] In response, the Sudanese Interior Ministry deployed 3,000 policemen to guard the pipeline.

Security/Military Operations

A tight relationship between foreign oil companies and the Sudanese military dates back to the Chevron era and early efforts by Khartoum to ensure security for the company and its newly discovered oil fields. In 1992 SPC/Arakis enshrined formal military cooperation into their Production Sharing Agreement.[111] By 1999, security for the oil field installations was provided in several ways. As discussed above, during the war, GoS-backed militias, including Riek Machar's SSDF and Paulino Matiep's forces contested control over oilfields. The Sudanese army was also on the ground guarding the fields. Amnesty International reported that in or around 1999, a Chinese oil company operating in Sudan had contracted with the Sudanese government to ensure the security of its operations.[112] Khartoum-backed paramilitary groups have been deployed to the oilfields, including the *al Himmat al Bitrol* and *al Fatih al Mubin* militias organized under the sponsorship of President Bashir, Defense Minister Siral-Khatim and Vice President Ali Osman Taha. It is also widely believed that the Ministry of Energy is heavily involved in organizing and bankrolling these brigades. The Government recruited volunteers from the universities to join the ranks of the Popular Defense Force (PDF), a militia that is armed and trained by the Army, (and includes a unit known as the "Protectors of the Oil Brigade") but made up principally of poor people from marginalized areas.

Finally, a layer of security in the oilfields was provided by private actors, including GNPOC's own security teams. According to Amnesty International, "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."[113] Talisman also had their own unarmed security consultants, though they were few in number and mainly tasked with providing advice about such issues as road safety and personal security for Talisman employees. As a Talisman spokesperson told CIJ about physical security for oil operations, "We never claimed our security was separate from GNPOC."[114]

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[109] Human Rights Watch (2003): p. 223.

[110] United Nations (Special Rapporteur Leonardo Franco), "Report on the situation of human rights in the Sudan," October 1999: p. 12.

[111] "Little-Known Firm In Canada Granted Sudan Properties," *Platt's Oilgram News*, 8 December 1992.

[112] Amnesty International (3 May 2000).

[113] Amnesty International (3 May 2000).

[114] Telephone interview with Reg Manhas, Manager for Corporate Responsibility and Government Affairs, 2 December 2005. For Talisman's view of the various security responsibilities, see Talisman CSR report 2001, p. 17.

GNPOC security staff are, by all accounts, literal mirror agents of the Government of Sudan. As noted in the Harker Report, employees of the GNPOC security teams are largely "serving or former army, police or security service officers and maintain the closest collaboration with the Sudanese Army garrison in Heglig, right next to which is a small compound described to us as the base for the local detachment of Sudan Security."[115]

Strikingly, those in charge of security operations are the same as those tasked with community development projects.[116] The manager of security operations for the oilfields and pipeline also oversees healthcare, education capacity development and freshwater supply. However, these projects have little or no oversight.

The security department reports directly to the President of GNPOC, Zhou Jiping, and Mohamed Khalifa, the senior Sudanese official in GNPOC.[117]

Oil infrastructure and revenue used for military purposes

Use of oil infrastructure for military purposes also has been widely documented. As part of the protection of Sudanese military forces, the consortium provided use of their facilities such as air strips, landing pads, and mechanical support.[118] The Canadian Harker Report claims that it is "incontrovertible" that GoS Antonov bombers, as well as helicopter gunships, are arming and refueling at the Heglig oilfield airstrip, operated by the GNPOC and adjacent to the oil workers' compound.[119]

Talisman argued that legally, oilfield infrastructure belonged to the government and was not under Talisman's control. They did acknowledge that military use of that infrastructure was tolerable, so long as it was defensive in nature, but rejected non-defensive applications.[120] They distinguished between the two uses in their report:

> Talisman defines defensive security support as that which assists those forces legitimately deployed within the concession area to protect personnel and property and which, in achieving those objectives, uses a proportionate level of force. Offensive activity is defined as anything outside the parameters defined as defensive.[121]

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[115] Harker (2000): p. 62.

[116] GNPOC, website, at http://www.gnpoc.com/asp/President.asp?glink=GL001&plink=PL006

[117] GNPOC, website, at http://www.gnpoc.com/asp/President.asp?glink=GL001&plink=PL006

[118] Amnesty International (3 May 2000); Human Rights Watch (2003): p. 183-184; Christian Aid, "The Scorched Earth," March 2001; Harker (2000), p. 16.

[119] Harker (2000): pp. 64-65.

[120] Telephone interview with Reg Manhas, Manager for Corporate Responsibility and Government Affairs, 2 December 2005.

[121] Talisman Energy: Corporate Social Responsibility Report 2000: p. 15. Available online at http://www.talisman-energy.com/pdfs/csr2000_report.pdf

Talisman acknowledged in its 2000 Corporate Social Responsibility Report (prepared by an independent auditor, PriceWaterhouseCoopers) that in 2000 there were “at least four instances of non-defensive usage of the Heglig airstrip in 2000” where “helicopters and planes landed on the airstrip for reasons we could not determine were related to oilfield security.”[122]

The Government of Sudan and one of the GNPOC’s partners, China, cooperate in another security realm: weapons. Sudan’s oil, which is extracted, transported, refined and consumed by China provides the hard currency that Khartoum needs to purchase weapons (many from China, which is Sudan’s largest supplier of arms[123]) to protect Chinese oil interests in Sudan. This cycle played out in the spring of 2002 in Leal, Sudan. Sudanese military with coffers invigorated by oil receipts, and supported by Chinese-made helicopters expelled local inhabitants from the rapidly expanding area of oil production.[124] The *Washington Post* cited a China Business News report which quoted a Chinese foreign affairs official as saying that Beijing asked Khartoum to “send troops” to areas in which Chinese companies operate.[125] U.S. government officials traveling in the region confirmed that the displacement was caused by Sudanese military forcibly clearing people from the vicinity of the oil fields.[126]

This behavior fits into the well-documented pattern in Sudan of funneling oil money into arms. Oil revenue has directly financed the purchase of Russian-made attack helicopter gunships and Sudan’s fleet has nearly quadrupled in size from six in 2000 to 22 in 2002.[127] These gunships have been widely reported being used in attacks on civilians in the North-South and Darfur conflicts.

Months prior to the formation of the GNPOC consortium in November 1996, Arakis attempted to bring new partners into its Sudanese oil venture. The Sudanese government closely followed – and perhaps even managed – the process by which the Chinese and Malaysian partners were engaged. In mid-1996, Arakis made a tantalizing announcement to prospective new investors about the new discovery 40 kilometers south-east of the Higleig field. Business Wire reported that, “El Toor 62a is the most prolific exploration well tested by Arakis to date.”[128] Unsurprisingly, a new military campaign resulting in the displacement of thousands of people was initiated by government militias in October 1996. The campaign ran through the spring of 1997.[129] Just as the expulsion campaign

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122 Talisman Energy: Corporate Social Responsibility Report 2000: p. 16.

123 Goodman, Peter S.: “China Invests Heavily In Sudan's Oil Industry; Beijing Supplies Arms Used on Villagers,” *Washington Post*, 23 December 2004.

124 Goodman, Peter S.: *Washington Post* (23 December 2004).

125 Goodman, Peter S.: *Washington Post* (23 December 2004).

126 United States Agency for International Development: “Upper Nile Report,” (November 2002), available online at http://www.usaid.gov/locations/sub-saharan_africa/sudan/upper_nile_report.html

127 Human Rights Watch (2003): p. 83.

128 “Arakis Announces Test Results of the El Toor 62a Discovery Well,” *Business Wire*, 22 May 1996.

129 Human Rights Watch (2003): p. 163.

ended, the formation of GNPOC was announced and renewed oil field exploration/ development began immediately with the deployment of the Chinese seismic crews. The displaced were from villages centered on El Toor. Less than one year later, the GNPOC consortium had discovered proven reserves in the new fields that totaled over 100 million barrels, including a field called "El Toor."[130] As noted in the Ler example above, displacement did not end there. Parallel with new discoveries came renewed abuses by the Government of Sudan.

Talisman: taking the human rights heat

Reports emanating from human rights groups would suggest that Talisman was the outside party most responsible for the bulk of the abuses relating to oil in Sudan. The campaigns of murder, pillage and expulsion however were taking place well before Talisman arrived and have continued after its departure. Even though Talisman was a partner in GNPOC, it was the Chinese oil company CNPC, along with its subsidiaries and subcontractors, who set the operational agenda and had far closer ties to Sudanese officials, both civilian and military. Talisman, whether by design or default, instead took on the advocacy role and was the main interlocutor and adversary targeted by human rights activists. It was Talisman, for example, named in the Alien Tort Claims Act lawsuit filed in a U.S. Federal District Court and sued for genocide.

Talisman's CEO, public face and combatant-in-chief, was Dr. James Buckee, an Oxford graduate in astrophysics and former executive of British Petroleum (BP). In 1992 he was sent from London to Canada to take over the sagging branch office of BP. He shepherded it through a buy-out deal overseeing the transformation from BP Canada to Talisman Energy.

Talisman actually had a reputation for encouraging corporate social responsibility (CSR). Early in 1998, prior to Talisman's involvement in Sudan, a Canadian bank established a special investment fund based on corporate ethics standards. The fund was based on an independent review of CSR, including human rights. Talisman was one of eight Canadian companies that made the grade.[131] Talisman's corporate philosophy with regards to human rights appears to be one of engagement. They share this outlook with former Canadian Prime Minister Jean Chrétien. On a trade promotion trip to Indonesia in 1996, Chrétien oversaw the completion of a natural gas project deal between two Canadian firms, including Talisman, and the Indonesian state-owned Pertamina. In response to criticisms of Canadian dealing with Suharto's Indonesia (and its record of human rights abuse) Chrétien said, "Isolation is the worst recipe, in my judgment, for curing human-rights problems. It is participation. It is being there to raise the issue, to help them to cope with their problems, that is the best way . . ."[132]

[130] Hueper, Paul F.: "Upstream Development Proceeds Despite Intensified Conflict," *Petroleum Economist*, 14 January 1998.

[131] Yedlin, Deborah: "Citizens Put New Spin on Term Deposit," *Calgary Herald*, 13 January 1998.

[132] Speirs, Rosemary: "Trade Mission Boasts $8.2 Billion in Deals PM Delighted as Indonesian Pacts Boost Total," *Toronto Star*, 18 January 1996.

During 2001 and 2002, the years in which Talisman's share in GNPOC was most lucrative, it spent $6 million on its community development programs in Sudan. Approximately $2 million was comprised of Talisman's mandated share of GNPOC's development projects, which were reimbursed from exports by the GoS. All told, the GNPOC and Talisman-managed development projects accounted for less than one quarter of one percent of GNPOC oil revenue for those two years.[133] Talisman has continued funding community development projects in Sudan after its departure, largely via a Khartoum company, Detasi.[134]

By October 2001, Talisman was under intense pressure by the human rights community. Buckee appeared desperate to find a buyer and reportedly entered into talks with Saudi princes.[135] Buckee complained that the human rights situation would be far worse under other companies besides Talisman.[136] It took a year for a buyer to emerge – but it was neither the Saudis nor the Chinese, but another emerging economic giant, India. In early November 2002 Talisman signed a sales agreement with Indian state-owned Oil and Natural Gas Corporation Ltd. (ONGC) for $758 million.[137] The net gain for Talisman on the Sudan sale was over $200 million.[138] By the end of 2003, Talisman's stock price was at an all-time high. Sudan had been a very profitable venture for Talisman.

In its second Corporate Social Responsibility (CSR) report, Talisman reported success on a controversial topic – disclosure of the amount of oil produced and revenue generated for the Government of Sudan. Talisman had somehow convinced the normally secretive Sudan government to disclose revenues of $151 million from oil exports in 2000 (although Talisman noted that $163 million was a more reasonable figure.)[139] Talisman's success was short-lived.

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[133] For development funds see Talisman Energy: Corporate Social Responsibility 2002. Available online at http://www.talisman-energy.com/pdfs/TLM02CR.pdf For revenue see Talisman Energy: Annual report 2003. Available online at http://www.talisman-energy.com/pdfs/2003Reports/tlm2003ar.pdf

[134] Interview with Talisman's Reg Manhas (2 December 2005).

[135] "Canada's Talisman Considers Selling Sudan Oil Company Shares," *Middle East Economic Survey*, 22 October 2001.

[136] "Canada's Talisman Considers Selling Sudan Oil Company Shares," *Middle East Economic Survey*, 22 October 2001.

[137] "Talisman Sells Sudan Assets to ONGC Videsh," *Middle East Economic Survey*, 4 November 2002.

[138] Talisman: Annual Report 2003: pg 23.

[139] Regarding the $12 million difference which remains unaccounted for: Talisman told CIJ they published the figures to counter the claim that the government was underreporting or misusing the revenue and that the figures somehow demonstrate that the government revenue was in the ball park of what it should be. (Interview with Reg Manhas.) At the same period of time, Sudan's close ally, Iraq, had instituted a scheme within the U.N.-run Oil-for-Food program to under-price oil, with the difference being kicked back to Iraqi leaders. The margin being skimmed for kickbacks in Iraq was as low as 1-5 percent. In the case of Sudan, the $12 million represents close to 10 percent. (Talisman Energy: Corporate Social Responsibility Report 2001: p. 26).

In their third CSR report, issued in 2002, Talisman only published the amount of taxes that the Sudan earned from the Canadian company's 25 percent share of GNPOC.[140] Figures on the government's overall revenue from oil had been dropped, while oil exports (and hence revenue) soared. Talisman remains extremely proud of their publication of official Sudanese revenue figures in 2000. Their success actually stemmed from pressure applied by an NGO campaign against Talisman in which the NGOs insisted that Talisman dictate to the government how the oil revenues must be used.[141] Talisman claimed the NGOs exaggerated oil revenue flowing from the Sudanese fields. Talisman attributes the perceived hyperbole on the part of human rights advocates as allowing them to convince the GoS with great ease that it was in the government's best interests to be transparent about the figures. Talisman believes that human rights scrutiny of the GNPOC oil project has all but disappeared since they withdrew from Sudan and now, Khartoum has no incentive to publish the figures.[142]

They may be right – the remaining members of the GNPOC consortium are all para-statal oil companies who do not face the same stakeholder pressures as Talisman did. Human rights pressure of the kind exerted by the Canadian Government on Calgary-based Talisman is not something that Beijing or New Delhi would likely apply to their own CNPC or ONGC. In fact, when asked about the petroleum industry's effect on Sudan's bloody civil war, the Oil Minister of India said, "I know in the U.S.A. or Canada these feelings are there. We in India don't have such feelings on this issue. We feel the investments there are safe and, since it's a producing field, we are keen to have it….My greatest interest is to have equity oil as soon as possible."[143]

Talisman's CSR, lobbying and human rights efforts stand in contrast to China's lack of involvement in this realm. According to the Sudanese Minister of Energy and Mines Awad Ahmed al Jaz, "The Chinese are very nice," he said. "They don't have anything to do with any politics or problems. Things move smoothly, successfully. They are very hard workers looking for business, not politics."[144]

The Sudanese Petroleum Corporation

The Sudanese Petroleum Corporation (the "Corporation") is a wholly-owned entity of the Ministry of Energy and Mining. The Corporation has three roles: management of petroleum exploration operations; negotiating exploration and production agreements;

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[140] Talisman Energy: Corporate Social Responsibility Report 2001: p. 26.

[141] Telephone interview with Reg Manhas, Manager for Corporate Responsibility and Government Affairs, 2 December 2005.

[142] Telephone interview with Reg Manhas, Manager for Corporate Responsibility and Government Affairs, 2 December 2005.

[143] Embassy of Sudan, Washington D.C., "Politics trumps human rights in Sudan," 24 June 2002, available at: http://www.sudanembassy.org/default.asp?page=viewstory&id=59

[144] Goodman, Peter S.: "China Invests Heavily In Sudan's Oil Industry; Beijing Supplies Arms Used on Villagers," *Washington Post*, 23 December 2004.

and acting as a holding company for state-owned operating units.[145] These operating units include the following: Sudapet, Port Sudan Refinery, Khartoum Refinery, Sudanese Petroleum Pipeline, Nile Petroleum, and the Blue Nile Processing Company (a joint venture with the Chinese Bureau of Geophysical Prospecting).

The Sudan Petroleum Company - Sudapet, which is an operating unit of the Sudanese Petroleum Corporation, was created in 1997, (spurred by the formation of the GNPOC consortium) at the time when the Sudanese government finally became serious about producing and exporting oil.[146] Sudapet has been granted an equity share of every concession issued by the GoS since then. Sudapet considers itself as more than just a place-holder for the Sudanese government's share of oil revenue. Sudapet is involved in the exploration, drilling, production and transportation of crude oil in Sudan. It is also becoming involved in operational upstream aspects such as pipelines, refineries and oil marketing.[147] Sudapet plans on going international, taking a cue from other state-owned oil companies such as CNOC and Petronas.

Prior to the creation of Sudapet, the Sudanese government entity in charge of handling relations with foreign companies was the General Petroleum Corporation (GPC). GPC was the government interface for State Petroleum and Arakis to develop their proposal that led to the agreement in August 1993 granting the Concorp concession to SPC/Arakis.[148] One of the principals of GPC was Salah Wahbi. Wahbi served as General Manager of GPC's Higelig Oil Field Development Project and eventually as General Manager for GPC's Exploration and Production division. Wahbi later became president of Advanced Petroleum ("APCO"), which currently holds rights to the Block C concession in Darfur (see section on APCO below).[149] GPC was disbanded in 1994 by the Minister of Energy Salaheddin Karrar for inefficiency and corruption, with reports of hundreds of millions of Sudanese pounds stolen or misappropriated.[150]

Awad Ahmed al Jaz

Awad Ahmed al Jaz, Sudan's Minister of Energy, responsible for oil development, holds a PhD in Business Administration from the University of Southern California. In 1990, just one year after the NIF's accession to power, Dr. al Jaz was brought into the government as Minister of Trade.[151] Some credit him in this role with successfully helping to convince the United States to resume humanitarian aid shipments to Sudan

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[145] Sudanese Petroleum Corporation, website, at http://www.spc.sd/profile.php

[146] Archived Sudapet website, at http://web.archive.org/web/20021126114313/http://sudapet.com/

[147] Sudanese Petroleum Corporation, website, at http://www.spc.sd/profile.php

[148] "Arakis Aims at '94 Field Work in Sudan," *Platt's Oilgram News*, 26 April 1993.

[149] APCO, website, at www.apco-sd.com/html/president.htm

[150] Sudan News & Views, #4, June 23, 1994, citing a statement by the Minister to Economic Committee of the Transitional National Assembly.

[151] "Sudanese Ministerial and Local Government Reshuffle," BBC Summary of World Broadcasts, 14 August 1990.

after they were suspended due to Sudan's support of Iraq during the first Gulf War.[152] In August 1991, he was appointed Minister of Presidential Affairs and chair of the Council of Ministers, one of the top positions in the GoS, and one where he dealt with a variety of international affairs. He held this position for four years until he switched to the energy portfolio.

Amongst his most important international ventures was strengthening of Sudan's relationship with China. Between 1992 and 1993, he made at least two trips to the Asian giant.[153] In early 1993, al Jaz visited Baghdad and Tehran as a Presidential Special Envoy. He met both Saddam Hussein and Akbar Hashemi-Rafsanjani.[154] Al Jaz attempted to broker a three way deal by which Sudan would receive Iranian oil and Iran would be reimbursed with Iraqi oil. It is not clear what Sudan was to provide to Iraq.

On the domestic front, al Jaz helped create the Public Defense Forces (PDF) that went on to guard the oil fields during the civil war. In April, 1992 he provided a practical incentive to bolster the PDF's ranks. He tied promotions and pay raises within the civil service to fulfillment of one's service in the PDF.[155]

On August 12, 1995, Dr. al Jaz replaced Minister of Energy General Salah Karrar. Karrar had overseen the SPC/Arakis era of Sudan oil field development, during which time no oil had been produced, though millions of dollars had been made by some early investors on stock manipulation. Al Jaz's appointment occurred at the same time as the collapse of the much heralded Saudi (AGI) funding for Arakis and the subsequent collapse of Arakis's share price. It was at this point that the Sudanese government apparently shifted its strategy towards one of actual production and export.

In June 1996, at the inauguration ceremony of the Higleig field, Dr. al Jaz exaggerated oil production figures. He claimed that the field was producing 10,000 b/p/d when the actual figure was closer to 2,000.[156] By October he had upped the production figures to 13,000. The crude was being shipped to a plant in el Obeid.[157] In late 1999, he said oil production had reached 10 million barrels and that the revenue would be used for roads,

[152] "U.S. to Resume Food Aid to Sudan," *Xinhua*, 15 April 1991.

[153] "Agreement Reached with China on Administrative Reform, Free Trade Zones," *Sudan News Agency (SUNA)*, BBC Summary of World Broadcasts, 8 December 1992 and "Bashir Sends Message to Chinese Leader," *Sudan News Agency (SUNA),* BBC Summary of World Broadcasts, 14 September 1993.

[154] "Sudanese Envoy in Iraq," BBC Summary of World Broadcasts, 11 February 1993 and "Visiting Sudanese Minister Meets President Rafsanjani," BBC Summary of World Broadcasts, 2 March 1993.

[155] "Certain Promotees Subject to Civil Service Code on Mandatory Military Training," Sudan Radio, BBC Summary of World Broadcasts, 19 April 1992.

[156] "Sudan Concludes Agreement With Russian Firm For Crude Oil Pipeline ," *Middle East Economic Survey*, 1 July 1996.

[157] "Sudan's Crude Oil Production Reaches 13,000 B/D," Middle East Economic Survey, 7 October 1996.

rail and telecommunications.[158] For the same period Talisman reported less than 4 million barrels had been produced.[159]

Al Jaz has publicly denied that expulsions had occurred in oil producing areas, instead, claiming that the "area was a nomadic one and there were no people settling there before." In fact, he claimed that oil development had brought people to the fields: "The government was now faced with the challenge of providing clean water, hospitals and schools to the people that are now flocking to the area." [160]

Lundin/IPC

Lundin Petroleum is a Swedish-owned company registered in Stockholm, Geneva and Vancouver. In February 1997, a Lundin subsidiary, International Petroleum Corporation ("IPC") of Vancouver, British Columbia signed an Exploration and Production Sharing Agreement ("EPSA") with the Government of Sudan for Block 5A. Block 5A, formerly part of the Chevron concession, borders GNPOC's Unity field and encompasses a huge swath of Western Upper Nile State. Over the next few months Lundin brought in partners Petronas with a 28 percent share; OMV of Austria with 26 percent; and Sudapet with 5 percent stake in Block 5A. Lundin acted as 'the operator', while the others were investors.[161]

Renewed fighting erupts between GoS proxies for control over oil Block 5A

At first, Lundin's security team worked with loyalists of the Riek Machar faction, hiring local security recommended by his officials.[162] However, the Khartoum regime distrusted Machar and, once serious oil exploration began in Block 5A, turned to a reliable hired gun, Paulino Matiep, to reassert control over Block 5A. According to local interviews conducted by Human Rights Watch in 1998, in the area of Ryer in which the Thar Jath oil fields were later found, the population was ordered out of their homes by Matiep. His message, delivered on behalf of the Sudanese government, was that they must clear the way for oil exploration.[163]

In April 1999, as Lundin was completing its first well at Thar Jath, in Bentiu, the Sudan Ministry of Defense informed Riek Machar's SSDF militia that the Government's military would protect all the oil fields, including Thar Jath. The SSDF, then in physical control of the area, refused to yield control. Within days, government soldiers backed by

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[158] "Sudan Produces 10,304,869 Barrels of Oil in Year 1999," *Sudan News Agency (SUNA)*, 1 November 1999.

[159] Talisman Energy: Annual Report 1999: p. 28.

[160] "Kenya; Government Denies Signing Oil Deal With Sudan," *East African Standard*, 10 January 2002.

[161] Lundin Oil AB: Annual Report 2000: p. 12.

[162] Batruch, Christine: "Oil & Conflict: Lundin Petroelum's Experience in Sudan," p. 4. Available online at http://www.lundin-petroleum.com/Documents/ot_sudan_oil&conflict_24-11-03.pdf

[163] Human Rights Watch (2003): p. 191.

General Paulino Matiep's militia invaded. Fighting raged all summer and by the fall of 1999, government forces and General Matiep were in control and thousands of people had been expelled from the vicinity of the Thar Jath oil fields.[164]

Lundin's oil road: paved with controversy

Meanwhile, Lundin suspended operations, blaming the stoppage on bad weather:

> Operations had to be suspended for a period of more than 18 months, due largely to seasonal weather conditions and lack of year-round access to the location….During this time, however, a 75 km all-weather road was constructed connecting the base camp at Rubkona to the drilling location at Thar Jath. . . It also enhances peoples' mobility and local access to amenities in the Rubkona area.[165]

Construction of the all-weather road cost Lundin $5.3 million. It was built by Higleig Petroleum Services & Investment, a Khartoum-based company.[166] Chinese labor was reportedly used in its construction,[167] although Lundin claims that no foreign nationals were working on the road.[168] In December 2000, just after completing the road from Rubkona to its oil fields, Lundin returned to finish drilling and testing its first producing well.[169] They remained less than two months before again leaving due to security concerns.

Within weeks, allegations began surfacing that the road was used for far more than merely moving oil drilling equipment and "enhancing peoples' mobility and local access to amenities." In March 2001, UK-based charity Christian Aid reported that expulsion of people from settlements along the road took place during its construction. Christian Aid cited several eyewitness accounts of government troops, supported by Antonovs and helicopter gunships, terrorizing and expelling the local population.[170] The uproar embarrassed the Swedish government which called on the United Nations Special

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[164] For a blow by blow account see Human Rights Watch (2003): p. 262-282.

[165] Lundin Oil AB: Annual Report 2000, p. 13.

[166] Advanced Petroleum Company, website, at http://www.apco-sd.com/html/higleig.htm Higleig is part of the consortium involved in the Darfur concession as well as part of Petrodar via shares in Gulf Petroleum. See below.

[167] Christian Aid: "The Scorched Earth," March 2001: p. 7, citing a former Sudanese State Minister of Roads.

[168] E-mail correspondence from Lundin to CIJ, 12 December 2005: "There were no foreign nationals working on the road to our knowledge (Chinese contractors were used for the seismic and drilling campaigns, but even then we had over 150 south Sudanese working on the seismic campaign alone)."

[169] "Lundin Tests First Well in Block 5A," *Middle East Economic Survey*, 5 February 2001.

[170] For descriptions of specific attacks on villages along the Lundin oil road, see Christian Aid (March 2001): p 7-8.

Rapporteur to issue an opinion. The U.N. official, Gerhard Baum, concurred with Christian Aid's assessment.[171]

In response to the fallout following the Christian Aid report, Lundin invited Swedish journalist Anna Koblanck to visit the area. Lundin's damage control strategy backfired. Though accompanied by Lundin officials and escorted by the Sudanese military, Koblanck nevertheless described forced expulsions, burnt villages and a path of destruction during the road construction. Lundin flatly denied all the allegations, including similar claims by the U.N. Special Rapporteur, stating that the company had carried out its own investigation and "can now state categorically that there has been no forced population displacement along the 80-kilometer all-weather road which runs from our base camp at Rubkona to the present drill site at Jarayan, and no burning of villages to make way for this road." Lundin continued to deny the United Nations' allegations, noting, "We deeply regret that the Special Rapporteur did not visit the oil areas before delivering his report."[172] Lundin continues to reiterate to CIJ their belief that no persons were displaced and that the road allowed people from remote areas to reach local markets.[173]

In January 2002, Lundin again suspended Block 5A operations for security concerns.[174] Despite being absent from the oil fields for a another extended period however, in February 2003, Lundin Petroleum announced that the Thar Jath field alone held reserves of at least 150 million barrels and possibly up to 2 billion. Lundin initially believed production would reach 40,000 b/p/d.[175] Shortly thereafter, in April 2003, Lundin

[171] "During my visit I gathered further evidence that oil exploitation leads to an exacerbation of the conflict with serious consequences on the civilians. More specifically, I received information whereby the Government is resorting to forced eviction of local population and destruction of villages to depopulate areas and allow for oil operations to proceed unimpeded. I was informed that all the villages around Nhialdiu, in Minme, south of Bentiu, have been burnt to the ground and crop has been destroyed. Similarly, all the villages along the road up to Pulteri [Pultutni], in the surrounding of the oilfields at Rier, have been razed," United Nations Commission on Human Rights, "Oral Statement of the Special Rapporteur on Human Rights in Sudan Gerhart Baum to the U.N. Commission on Human Rights," Geneva 29 March 2001. Available online at http://www.unhchr.ch/huricane/huricane.nsf/0/072FE7F713DE0F4FC1256A29002A3757?opendocument

[172] "Lundin Oil Refutes Allegations of Human Rights Breaches," *Middle East Economic Survey*, 16 April 2001.

[173] Email correspondence from Lundin to CIJ, 12 Dec 2005: "We stick to our conviction that there was no forced displacement in connection with the building of the road built in Block 5A between Rubkona and Thar Jath in 2000. The road took a particularly (longer) itinerary in order to avoid the possibility of crossing any villages. Several trips were made by senior executives from the Company to ensure that the road construction did not disrupt the local population and cause any clashes between different tribes. To the contrary the road enabled isolated people living in Block 5A to reach the markets in Bentiu and Rubkona at a fraction of the time it used to take them before the existence of the road."

[174] "Lundin Temporarily Suspends Block 5A Operations," *Middle East Economic Survey*, 28 January 2002.

[175] "Lundin Petroleum Completes Thar Jath Development Plan," *Middle East Economic Survey*, 10 March 2003.

Petroleum announced that security was sufficient to resume work.[176] A mere three weeks later, however, Lundin announced the sale of its 40 percent share in 5A to Petronas for $142 million. At the time, the *Middle East Economic Survey* noted that the sale marked "a further increase in Asian investment in Sudan's oil sector at the expense of Western firms."[177]

Later in 2003, Lundin's most notable legacy – their controversial all-weather road – was described in a report by the U.S.-funded Civilian Protection Monitoring Team, which investigates attacks in southern Sudan. The team hoped to "illustrate the violent and routine abuse of civilians by GoS soldiers along the Bentiu-Leer-Adok Road." The report summarized the synergies between oil exploration and military action.

> As the Government of Sudan (GoS) sought to clear the way for oil exploration and to create a *cordon sanitaire* around the oil fields, vast tracts of the Western Upper Nile Region in southern Sudan became the focus of extensive military operations. As new areas opened to exploration, roads were constructed to facilitate the oil company's logistical and operational support. In addition to their commercial value, these roads enhance the GoS's ability to provide security for the oil company, and further extend their military influence in the region. The most contested, and controversial road in the region remains the all-weather Bentiu-Leer-Adok Road that presently connects Bentiu with Leer, and ultimately will connect with Adok on the Nile.[178]

Petrodar

In the summer of 1995, as the Arakis/SPC stock market bubble was at its peak, renewed interest arose in another potential gold mine, Block 3. Situated about 400-kilometer north-east of Sudan's main oil fields and towards the Ethiopian border, Block 3 (once surveyed by Chevron) held a potential oil field called Adar Yel.

In August 1995 Gulf Petroleum Company- Sudan (GPCS) was incorporated and immediately signed a Production Sharing Agreement (PSA) with the government of Sudan to develop Block 3.[179] At its founding, GPCS was 60 percent owned by Gulf Petroleum, a Qatari state-owned firm; 20 percent by Concorp and 20 percent by the Sudanese National Company for Petroleum (Sudapet). Between 1995 and November 2000 an array of investors spun through a revolving door of ownership including a Malaysian firm called Advance Synergy, which picked up most of Concorp's and

[176] "Lundin to Resume Limited Work on Block 5A as Conditions Improve," *Middle East Economic Survey*, 7 April 2003.

[177] "Lundin Petroleum Completes Sale of Block 5A Stake," *Middle East Economic Survey*, 30 June 2003.

[178] Civilian Protection Monitoring Team, "Report of Investigation: Violence Against Civilians Along the Bentieu-Leer-Adok Road," available online at http://www.cpmtsudan.org/investigations/violence/roi_violence_fighting.htm

[179] Archived version of www.petrodar.com/gulf

Sudapet's shares for a 30 percent stake in the GPCS.[180] Again, Concorp profited from a government-mandated concession which they sold within a year. In 1999, Arakis's former point man on exploration, John G. F. McLeod, returned to Sudan with another Canadian company, Fosters Resources to try to get in on Block 3 action.[181] After spending some $2 million in "costs of negotiating and securing interests" in Sudan,[182] the company decided to pull out due to because of pressure by human rights activists.[183]

In the midst of this spectacle, however, the Malaysian shareholder Advance Synergy quietly sold their 30 percent holding to Sudanese businessman Salah Idris. GPCS, still majority-owned by the Qataris, but now with partners Salah Idris, Concorp and Sudapet, brought in China National Petroleum (CNPC) and a United Arab Emirates firm known as Al Thani Investments. In September 2001, the consortium created its own legal entity called "Petrodar" and registered it in the British Virgin Islands.

For Al Thani Investments Group, based in Dubai, this was its first foray into the oil industry. Al Thani's self-described goal is to become the largest Middle-Eastern-based, independent oil company.[184] Its apparent business model is to partner with state-owned national oil companies. They have done so in Tunisia, Algeria, Mauritania. Libya, Yemen and Senegal. "We see ourselves as a partner with added value for national oil companies and their governments." [185] Just what that "added value" for Sudan was not clear, although Al Thani distinguishes itself from competitors by alluding to its capital, technical and "human" resources and connections: "being an Arab company from the UAE, we speak their language, share the values and visions, but most importantly we are part of the culture."[186]

Despite the fact it was Al Thani Investment's first venture in the oil business, at the launch of Petrodar, Al Thani was granted a 23 percent interest. As Petrodar itself noted; "Soon after Al Thani received their concession license for 23 percent of Blocks 3 and 7, they sold most of their share in Petrodar to the China National Petroleum Company (CNPC). They retained 5 percent under a subsidiary known as the Arabian African Oil Company (AAOC.)"[187] It is not clear why the Chinese state-owned firm, which already had a successful track record with the government of Sudan, did not work directly with

[180] Nantha, Francis C.: "Advance Synergy in Sudan Oil Deal," *New Straits Times (Malaysia)*, 11 June 1996.

[181] Fosters Resources Ltd.: Annual Report, April 2000: p. 9.

[182] Fosters Resources Ltd.: Interim Financials, 28 August 2000.

[183] Fosters Resources Ltd.: Annual Report 2001.

[184] "UAE Firm Al-Thani Builds Assets in Africa, Targets Mideast", *International Oil Daily*, 3 March 2005.

[185] "UAE Firm Al-Thani Builds Assets in Africa, Targets Mideast", *International Oil Daily*, 3 March 2005.

[186] "UAE Firm Al-Thani Builds Assets in Africa, Targets Mideast", *International Oil Daily*, 3 March 2005.

[187] 2002 archived version of www.petrodar.com/thani

the Government, but instead chose to purchase its interest in the concession via a Dubai-based company with no previous track record in the petroleum industry.[188]

In 2003, Salah Idris' firm, Ghanawa Petroleum, which had bought its share of Gulf Petroleum Sudan from the Malaysian conglomerate, sold the share back to the Malaysian state-owned Petronas. Higleig Petroleum, the Sudanese oil field construction firm responsible for building Lundin's much-maligned Rubkona road, somewhere along the way acquired Concorp's 6 percent share. Current standing in Petrodar is: CNPC with 41 percent; Malaysia 40 percent,; Sudapet 8 percent; Higleig Petroleum 6 percent; and Al Thani 5 percent.

The main operational impediment for Petrodar has been transportation of oil. They currently do so via truck, barge and train. A Malaysian firm, Ranhill International, surprisingly under-bid the Chinese subsidiary of CNPC for the $239 million contract to build oil field infrastructure, including a pipeline necessary to vastly expand exports. Ranhill partnered with Petroneeds Services International, partly owned by Higleig Petroleum.[189] As of November 2005, the project was reportedly running into serious cost-overuns.[190]

Prospects for the Future of Oil in Sudan

A brief critique of the Wealth-Sharing Agreement

Since the first sizable discovery of petroleum in the early 1980s the issue of what to do with oil wealth has been debated. Southern Sudanese leaders have called for sharing of petroleum revenue since oil was first struck. However, when the Khartoum government defined its oil development strategy to include refineries in the north and a pipeline to the Red Sea at Port Sudan, the leaders of South Sudan considered it a *casus belli*. Over recent years, as the United States began to re-engage with Sudan, revenue sharing of the oil wealth was seen by the Bush Administration as being an integral part of any peace agreement.

In May 2002 President Bush's Special Envoy to Sudan, Senator John Danforth, promoted the concept of wealth-sharing in his report to the White House.[191] With his backing, the Washington-based Center for International and Strategic Studies and the energy consulting firm Petroleum Finance Corporation prepared a series of presentations for the Intergovernmental Authority on Development (IGAD) negotiations on options for the oil

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[188] Al Thani does claim to have assembled a small team of petroleum industry veterans. "UAE Firm Al-Thani Builds Assets in Africa, Targets Mideast", *International Oil Daily*, 3 March 2005. The *International Oil Daily* also notes that while divesting in Sudan, Al Thani simultaneously entered into a partnership with CNPC in Libya in late 2001, where both companies signed an agreement with the state National Oil Corporation including development projects and a four-block exploration deal.

[189] "Asians to Develop Melut," *Africa Energy Intelligence*, 23 June 2004.

[190] Jayaseelan, Risen: "Ranhill's Sudan Project Hits Snag," *The Edge Malaysia*, 3 October 2005.

[191] Danforth's report to the President on the Outlook for Peace in the Sudan is available online at http://www.whitehouse.gov/news/releases/2002/05/20020514-11.html

industry in Sudan and some proposed models of revenue-sharing. IGAD negotiators, US government officials and outside interested parties could only propose options however and recognized that it was up to the Sudanese parties to reach a final agreement themselves.

By January 2004, the Government of Sudan and the SPLM had devised a wealth-sharing agreement and it came into effect a year later with the inking of the Comprehensive Peace Agreement in Nairobi on January 9, 2005. While the revenue-sharing agreement is a significant component of the overall agreement, there are some potential pitfalls which need to be watched closely.

There are several important components of the wealth-sharing agreement concerning oil:[192]

1) Distribution of oil revenue is divided into four parts. A benchmark price for exports is to be agreed between the parties on an annual basis. All revenue exceeding the benchmark will be deposited in an Oil Revenue Stabilization Account. The agreement does not specify how the benchmark price is to be set (but vaguely alludes to "reflecting changing economic circumstances"), nor what the funds in the account are to be used for. At least two percent of revenue is allocated to the state/region in which the oil is produced. The rest, the vast majority of the revenue, is to be divided 50-50 between the Government of Sudan and the Government of South Sudan.

2) All contracts signed prior to the signing of Comprehensive Peace Agreement are considered binding and not subject to re-negotiation.

3) A National Petroleum Commission (NPC) is established to, *inter alia*, negotiate and approve all oil contracts. The members will be: the President of Sudan; the President of South Sudan; four members from the Government of Sudan; four members from the Government of South Sudan; and three members from the producing state/region. The NPC approves all new contracts. The three representatives from the state/region can 'collectively' veto the NPC. The contract then goes to a Council of States/Regions (a chamber of the legislature created by the Peace Agreement) which can overrule the veto with 2/3 vote. If less than 2/3 vote then the Council refers the contract to binding arbitration (with the arbitrator(s) chosen by council).

Unresolved in this clause is who the three members from the producing state/region will be and what exactly constitutes a state/region. This is critical as any two of the three can swing a contract to either Khartoum's or the Southern Government's contractor. While a dispute resolution mechanism does exist, it requires careful scrutiny in order to avoid having the process deteriorate into gridlock, or worse, violence. For example, should the Commission not be able to agree on a contract, or be unable to decide between competing contracts, or if the Council of States/Regions cannot agree on an arbitrator, the current

[192] Chapter 3: Wealth-Sharing, "Comprehensive Peace Agreement Between Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army," Nairobi 9 January 2005. Available online at http://www.usip.org/library/pa/sudan/wealth_sharing_01072004.pdf

status quo will prevail. That is to say, whichever faction currently controls the security on the ground will be able to encourage the development where they reign. Should development proceed towards oil production and exports, opposing security forces could attempt to take control of the oil field in dispute, as they have in the past. However, due to the lengthy arbitral process built into the agreement, international observers and other objective parties have many opportunities to intercede during the process which could avert a stalemate or gridlock over oil contracts that could lead to fresh violence.

Wealth Sharing Agreement opens up past, puzzling practices to scrutiny

The Commission's procedures also provide another important opportunity for Sudan. The Wealth-Sharing Agreement opens up one of Sudan's most secretive ministries, the Ministry of Energy and Mining. It requires that Southern parties are granted access to the contracting process -- past, present and future. By doing so, the questions we have raised regarding why the government of Sudan has continually issued concessions to new, untested, unknown or inexperienced explorations firms might be answered and this practice, if shown to be abusive, might be curbed in the future.

Total/White Nile: The first post-war oil dispute in the making?

The first dispute the National Petroleum Commission may encounter will likely be between French oil giant Total, aligned with the government in Khartoum, and White Nile Petroleum, a British joint-venture working with the Government of South Sudan. Total, one of the world's leading oil companies, signed a production sharing deal with the government of Sudan in 1980 for what is now called Block B, a huge swath of territory that largely fell under the control of the SPLM over the past two decades. Total, which physically suspended its operations in 1985 due to the civil war, claims it has been paying the government minimal annual fees in order to preserve its rights to the concession.[193] Block B has no producing wells and Total only performed preliminary exploratory work in the early 1980s. At various times, Total's partners include Kuwait Petroleum, U.S.-based Marathon Oil and Sudapet.

The SPLM however, claims to have signed a deal with White Nile Petroleum in August 2004, though the agreement only came to light on February 16, 2005. The dates are important as the wealth-sharing agreement stipulates that all oil contracts negotiated prior to the agreement must be adhered to. The peace agreement was signed on January 9, 2005.

White Nile/SPLM claims that Total reneged on the 1980 agreement and therefore the August 2004 White Nile deal is the only valid contract for Block B. Total responds that its payment of the nominal fee kept the concession alive. In February 2004, the Sudanese claimed that Total was returning, but Total made no moves to do so. Bernard Cullet, Total's International Exploration Manager, has actively attempted to insert Total back into Sudan and met with Minister al Jaz in August 2005.

[193] Kerr, Simeon: "Sudan's Oil Leads to Standoff," *Wall Street Journal*, 1 March 2005.

To distinguish itself from White Nile, Total claims its will provide development projects as well as produce oil.

> "Our project is based on a sustainable development approach; it will promote training, education and health programmes, and will help to develop infrastructure and economic investment. We intend to work in full transparency and with due respect for the populations, their culture, and their environment. We will of course work in accordance with international business standards as well as with the principles of Human Rights just as we do everywhere in the world."[194]

White Nile, a Guernsey, Channel Islands-based shell company, was taken over by UK cricketer Phil Edmonds and mining expert Andrew Groves of South Africa. The SPLM originally held 40 percent of the shares via its Nile Petroleum company which was founded in July 2004, though CIJ has not been able to find registration documents.[195] Upon the announcement of the White Nile contract on February 16, 2005, the share price of White Nile, listed on the UK's Alternative Investment Market, skyrocketed from 10p to 137p, before share trading was halted. Trading resumed in May and fell to 80p after SPLM leader John Garang's death. As of September, 2005, Total is threatening legal action while White Nile seems to believe that the case will go before the National Petroleum Commission.

The International Crisis Group has expressly called for the White Nile contract to be voided. "It is difficult to tell if the White Nile fiasco is a case of nascent corruption among a few or a symptom of inefficiency and lack of governance structures."[196]

Darfur Oil: Uncharted oil grounds

In 2003, following the launch of attacks on the population of Darfur by Sudanese Government forces and their allies, the Ministry of Energy & Mining began issuing concessions for oil exploration in western Sudan. Advanced Petroleum Company (APCO), a firm with close ties to government officials, was specifically created to acquire concession "Block C" which stretches from southern Darfur through Western and Northern Bahr el-Ghazal.[197] APCO claims there were three other bids for Block C, including one from Romania-based Rompetrol, but APCO's was the best.[198] Nevertheless this process of establishing a company which immediately receives an oil concession is now established practice in Sudan as with Sudapet and Gulf Petroleum Sudan. The shareholders of APCO are: Cliveden (Switzerland) with a 37 percent stake;

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[194] "Interview-Total says White Nile has not any legal rights," *Sudan Tribune*, 31 May 2005.

[195] International Crisis Group: "The Khartoum-SPLM Agreement: Sudan's Uncertain Peace," 25 July 2005: p. 20. Available online at http://www.crisisgroup.org/home/index.cfm?id=3582&l=1

[196] International Crisis Group (25 July 2005): p. 20.

[197] Advanced Petroleum Company, website, available at http://www.apco-sd.com/main.htm

[198] E-Mail correspondence from APCO to CIJ, 30 November 2005.

Hi-Tech Petroleum (Sudan) with 28 percent; Sudapet (Sudan) with 17 percent; the State of Khartoum 10 percent; and Higleig Petroleum (Sudan) with 8 percent.

Based on data gathered by Chevron in the 1970s and 80s, the Sudanese government is very bullish on the potential in Block C. The president of APCO, Salah Wahbi, is a veteran of the Sudanese oil fields, previously holding senior positions with Chevron in Sudan and serving as one of their engineers in the US. Wahbi also served as head of exploration for the Sudanese government in charge of developing the huge Higleig field and Vice-President of Petrodar and Gulf Petroleum. Given Wahbi's talent and experience, it is surprising that the first showcase well drilled -- in May 2005 -- was dry. The well was called Dokhon 1 and is two kilometers south of Hiba 1, another dry well that was drilled by Chevron back in the 1980s. Both wells are located in southern Darfur near the Kordofan border.

Wahbi heads Hi-Tech Petroleum, part of Hi-Tech Group, also known as al Taqniyah. The firm was started by the Sudanese Government in 1992, and then privatized the next year. The Hi-Tech Group is involved in industries ranging from telecoms to banking. The other principal shareholder is Abdelaziz Osman, a former Minister of Energy.

Another private Sudanese firm involved in the Block C consortium is Higleig Petroleum Services and Investment Co. Ltd, which is heavily involved in oil field development, building pipelines and roads. Higleig appears to be in the consortium for two reasons. First, Hi-Tech is a large shareholder of Higleig and (as was seen in other concessions), the subsidiaries of major shareholders tend to bid lowest on lucrative oil field service contracts. Second, Higleig has a proven track record of handling awkward projects. They constructed the infamous Rubkona all-weather road for Lundin Oil in 1999. This project, as noted above, coincided with Sudanese government-sponsored militia attacks and displacement of peoples along the road. Higleig Petroleum also holds shares in Petrodar, the Chinese-Malaysia-Indian consortium working in Blocks 3&7.[199]

The APCO consortium has two Sudanese state-owned entities as shareholders, the ubiquitous Sudapet and the state of Khartoum. APCO claims there are two reasons why the Khartoum state government is involved in an oil project hundreds of kilometers away.[200] First, according to APCO, the Governor of Khartoum, Abdul Haleem Mutaafi, who sits on their board of directors, is politically connected to Darfur and knows the region well. Second, this is strictly a business deal and the Khartoum State stands to profit by selling their share later. APCO notes that in Sudan this is well-trodden path with SPC and Talisman having made large profits in a similar fashion.[201] It seems as if this is the plan for other members of the consortium. APCO's President, Salih Wahbi

[199] *Africa Energy Intelligence* (10 December 2003).

[200] In fact, the State of Khartoum does not even share a common border with any of the Darfur states.

[201] E-Mail correspondence from APCO to CIJ, 30 November 2005.

reportedly said, "The object is to discover oil first – we will probably sell our share after a commercial find."[202]

Finally, APCO contains a foreign partner, the Cliveden Group, of Geneva, Switzerland. The Turkish-American owner, Friedhelm Eronat, renounced his US citizenship and took a British passport just prior to signing the deal with Khartoum in October 2003. By doing so he avoided violating US regulations of US persons dealing with the government of Sudan.[203] Eronat's Cliveden has been associated with an array of partners who have been embroiled in controversy. Kickbacks were paid by Cliveden partners such as Mobil Oil in Kazakhstan.[204] Another business partner, Lebanese Ely Calil (formerly Elie Khalil), who reportedly introduced Cliveden to the Sudanese officials, was allegedly the financier of the 2004 attempted coup in Equatorial Guinea, a charge that he denies.[205] Nevertheless Equatorial Guinea has demanded his extradition.[206] Cliveden's largest operation at the moment is in Chad, where its partners are companies rumored to be controlled by the President's family. According to the 2005 corruption ratings of Transparency International, out of 158 countries, Chad ranks # 158, its position unchanged from the previous year. Cliveden Chad recently sold half of itself to China's CNPC and a sister firm. According to APCO, Petronas was interested in joining the consortium but they were slow and had other priorities. Cliveden was invited due to their involvement in the oil fields of Chad bordering the western portion of their Block C concession.[207]

Meanwhile other Darfur oil rumors persist, largely fostered by the Ministry of Energy & Mining in Khartoum. The Sudanese government is stoking Japanese interest in Block 12 which covers nearly all of Darfur including the border region with Chad. It is reported that everyone from Japanese humanitarian NGOs to multinationals Mitsui and Mitsubishi and JNOC are angling to secure cross-border concessions in the extreme north-west of Sudan abutting Chad and Libya[208]. "There is also a field in the northern area of Sudan that has not been granted a license yet. The same applies to a *field close to the western border.*"[209] APCO President and long-term participant in Sudan's oil fields, Salih Wahbi

[202] Tesch, Pieter: "Sudan Hopes Wealth of Oil Will Lead it Away From Strife," *Lloyd's List*, 31 August 2004.

[203] Miller, Jonathan: "Briton Involved in Sudan Oil Drill," 9 June 2005, see: http://www.channel4.com/news/special-reports/special-reports-storypage.jsp?id=245&parasStartAt=0

[204] Hersh, Seymour M.: "The Price of Oil", *The New Yorker*, 9 July 2001, and "Ex-Mobil Executive Sentenced to 46 Months," Bloomberg News, 19 September 2003.

[205] Norman, James: "Before Coup, Chinese Backed Cliveden Eyed Equatorial Guinea," *Platt's Oilgram News*, 1 November 2004. *Platt's* later made clear that "[t]he article was not intended to suggest that Cilveden Petroleum and its president Friedhlem Eronat were involved in the recent 2004 plot to overthrow the government of Equatorial Guinea."

[206] "Empty-Handed in Guernsey," *Africa Energy Intelligence*, 13 April 2005.

[207] E-Mail correspondence APCO to CIJ, 30 November 2005.

[208] "How The Japanese Operate in Africa," Africa Energy Intelligence, 15 June 2005.

[209] Al Jaz interview, *Sudan Tribune*, Oct 03, 2005, emphasis added. This could mean Blocks 12A and 12B, discussed *infra*.

said, "There is no need to fight. The people of Darfur will benefit from sharing the oil wealth locally under a future peace agreement. Why delay it by continuing to fight?"[210]

Block 12 is a concession area that encompasses nearly all of Northern and Western Darfur and which runs along the Chadian border. Block 12 covers most, if not all of the areas where pillage, murder and expulsions at the hands of the GoS and their *jinjawid*allies have occurred. This winter, the GoS announced that two blocks "12A" and "12B" in the western part of Sudan had just been put up for auction. Minister of Energy al Jaz reported that a private Indian company, Reliance Energy, as part of a consortium, had already secured rights to the 12A concession. It is not yet known who will join them in the consortium. Concession 12B is scheduled to be open for bidding in February 2006 and al Jaz was hopeful that Indian state-owned ONGC would be able to secure rights.[211]

Conclusion

The Darfur consortium raises a curious point seen in the development of the blocks. As with SPC, Arakis, Fosters Resources, Al Thani and White Nile, the Government of Sudan appears to have brought in a smaller, less experienced actor, Cliveden, instead of dealing directly with a larger, more experienced or well-known oil company that could produce results – that is, oil. It may be that having smaller, less visible companies allows for individuals in the Sudanese Government (or more recently the SPLM with White Nile) to more easily profit from hidden sources.

Once oil begins to flow, revenue enters the bureaucratic structure, enriching the system, but perhaps not individuals as much. Or it could be the case that these smaller, unknown and shady firms are more willing to countenance human rights abuses in the oil fields. Certainly abuses have continued even after the well-established oil giants like Petronas and CNPC have arrived – but perhaps most of the abuse occurs while the smaller companies are present. Khartoum may be better able to control these small firms than large companies. We can only speculate at the moment as to the motives, but we have set forth the patterns of fact here in this paper.

[210] Tesch, Pieter: "Darfur disputes threaten to scupper Sudan export ambitions," *Lloyd's List*, 26 April 2005.

[211] "Sudan Offers India More Blocks, Refinery Project," *Indo-Asian News Service*, 5 December 2005.

3. Hurting People and Making Money in Agriculture

Agriculture is the backbone of Sudan's economy, a fact that the recent commercialization of Sudan's oil should not obscure. Unlike oil, agriculture is the primary livelihood of the overwhelming majority of Sudanese. While oil reserves will eventually taper off in coming years, agriculture will continue to drive both GDP growth and export earnings.

For the NIF, which took power in 1989 with an ideological plan to transform Sudanese society, control over agriculture was critical. Economically, agriculture has provided the regime with fiscal revenue and hard currency earnings. Socially, NIF agricultural policies have reached deep into the fabric of Sudanese society. Politically and even militarily, the regime has harnessed agriculture policies to help strengthen its hold on power.

At the same time, agriculture has also been a source of enrichment and patronage for politically connected figures, and increasingly so as the regime's priorities gradually shifted from the ideological to the more practical – from building an Islamic society in Sudan to merely making money and staying in power.

Abuse in the agricultural sector is often violent: seizure of land, destruction of livelihoods, forced labor, displacement, actual physical violence. But the abuse also consists of systematic policies of neglect, discrimination, abuse of judicial power and marginalization of rural populations. These are not necessarily physically violent in nature. But the resulting misery and dislocation in rural areas clearly feed communal violence all across Sudan.

This section attempts to lay out the overlap between human rights abuses and economic and commercial activity in agriculture. It is divided into four sub-sections:

(i) a review of the state of knowledge on abuse in agriculture, which emphasizes the gaps in the human rights analysis of the regime's agricultural policies;

(ii) an examination of how modern commercial farming in the non-irrigated sector affects rural people, and how the regime uses it to further its military, political and ideological agenda;

(iii) an analysis of how government efforts to control the livestock sector have deepened the marginalization of pastoral communities; and

(iv) a look at the violent consequences of rural marginalization, with a special emphasis on the conflict in Darfur and who may be profiting economically.

State of Knowledge

To date, human rights research has seldom focused on rural issues in Sudan *per se*. There is little analysis of the specific processes and economic activities that lead to the marginalization and disenfranchisement, among other human rights abuses, of large numbers of rural Sudanese. Human rights organizations have made little effort to track the government agencies, corporations, companies and individuals whose economic activity is tied to the abuse of human rights. In this respect, the rural sector in Sudan is different from the oil sector, which has attracted substantial attention: in the oil industry, the identities of (largely Western) corporations whose economic practices have led directly and indirectly to human rights abuses are well known.

This is striking because there exists an extensive historical body of written material on agriculture and rural life in Sudan – a reflection of the importance of agriculture in Sudanese society and economy. Much of the information comes from anthropological research, starting during the colonial period. In the 1970s and 1980s, the rural research became more focused on environmental and development policy issues. Those were times when field research was possible. Many researchers, both Sudanese and foreign, documented the deleterious impact of inequitable land tenure laws and mechanized farming on rural communities, both sedentary and nomadic. The next important step, documenting the actors whose commercial interests drove rural abuse, has not been undertaken.

One reason may be because the flow of information declined dramatically once the NIF government came to power in 1989. Several factors were at play. First, donor unhappiness with the new regime led to cutbacks in aid and the scaling down of large development projects that had been an important source of field data and analysis for what was happening on the ground. Second, since coming to power in 1989, the NIF government has made it very difficult for foreign researchers to conduct field work with local communities, especially in the disenfranchised areas of the country where numerous human rights violations have taken place. Third, Sudanese researchers in the country, who have better access to marginalized areas, have few safe outlets for their research. Some courageously continue to publish on the marginalization issues, both in Arabic and in English.[212] However, these writings have tended to appear in highly specialized academic publications that are difficult to acquire and not widely read, even by people who work on development issues in Sudan. And it is not safe for Sudanese researchers to track specific abuses and to name abusers.

The international aid agencies that have remained in Sudan under the NIF could have helped plug, at least in part, the analysis gap on rural marginalization. Many aid agencies work with marginalized rural communities, implementing programs that focus on rural livelihoods – the new aid orthodoxy. And some groups have, over the years, collected considerable data on agricultural production, rural households, markets, government

[212] The Organization for Social Science Research in Eastern and Southern Africa (OSSREA), headquartered in Addis Ababa, has provided a venue for such analyses.

policies, migration and so on. Unfortunately, aid groups often shy away from articulating any political analysis of what is happening in rural communities, probably for fear of negative repercussions by the authorities. International non-governmental organizations worry about the security of their local staff, and are also loathe to risk expulsion – and lost program revenue necessary to operate – for the sake of advocacy. The data that aid agencies collect, while in theory public, often remains closely guarded and hard to access for researchers outside of the country.

Since 2002, international interest and involvement in Sudan has increased steadily for reasons both good – the North-South peace process, capped in January 2005 by the Comprehensive Peace Agreement (CPA) – and bad – the human rights disaster in Darfur. But the result in terms of reporting on the abusive nature of economic activity in Sudanese agriculture has been mixed. Even large institutions such as the World Bank feel more comfortable hewing to a technical line of analysis. Seminal documents such as the 2003 World Bank's *Country Economic Memorandum* and the joint 2005 GOS-SPLM-UN-World Bank Joint Assessment Mission (JAM) reports analyze the various aspects of the agricultural sector in highly technical terms, with scant acknowledgement and no analysis of the political issues and economic dynamics that lead to the marginalization of rural communities in Sudan.

Some exceptions exist, mostly, but not all, reports authored by Sudanese researchers contracted by donors and aid agencies.[213] One problem, however, is that the pool of researchers and consultants, both Sudanese and international, interested in rural marginalization issues is limited to a few dozen individuals. As a result, many reports quote each other, and while overall quality is high, the danger is that the research could become circular in nature, ensconced in familiar paths.

Current reporting on Darfur is a case in point of the structural gaps in reporting on abuses tied to economic activity in the rural sector. The current crisis has led to a surge in reporting on Darfur – human rights reports, aid agency reports, applied research, and press reports -- yet the gaps remain.

Mainstream human rights organizations focus on human rights abuses in a traditional manner: they interview witnesses, describe atrocities and try to establish institutional responsibility. But there is little focus on the commercial dynamics behind human rights abuses: who stands to gain from violence and how, what is happening to looted livestock, and which commercial entities are involved.

[213] For examples among others, see: Shazali, Salah: "Share the Land or Part the Nation: Pastoral Land Tenure in Sudan," United Nations Development Program, Khartoum n.d.; Al Massar: "Pastoralist Baseline Survey, Greater Darfur, 2003," Khartoum 2003; United Nations Development Program: "Roots of Conflict in North Kordofan, North Darfur and Sobat Basin of Upper Nile State," Khartoum 2003: p.16 (available at www.sd.undp.org); Babiker, Mustafa: "Resource-Based Conflict and Mechanisms of Conflict Resolution in North Kordofan, Gedarif and Blue Nile States," Sudanese Environment Conservation Society (SECS) / United Nations Development Program, Khartoum 2005: p. 9 (available at http://www.sd.undp.org). Other excellent resources include: African Rights: *Food and Power in Sudan – A Critique of Humanitarianism*, London 1997 and Abdelgabar, Omar: *Mechanised Farming and Nuba Peasants: An example for Non-sustainable Development in the Sudan*, Hambourg, LIT, 1997.

Humanitarian agencies concentrate on technical issues but seldom delve into political analysis or human rights advocacy (MSF in Darfur has been an exception, on occasion). For instance, Oxfam GB and Save the Children (UK), both respected aid agencies with two decades of programs in Darfur, failed in all those years to explain to the outside world the political and economic dynamics that are at the root of Darfur's marginalization – and therefore at the root of the current violence. More in-depth studies on the impact of the violence such as the recent Tufts-Ahfad study of Darfur livelihoods and the EC-FAO-USAID rapid assessment of aid and livelihoods, both excellent, touch on political and economic human rights issues, but do not pursue them.[214]

The three sections that follow – on the mechanized schemes and other aspects of 'modern' commercial agriculture, on the pastoral and livestock sectors, and on the violence that results from the marginalization of rural society in Sudan – seek to synthesize existing information and highlight gaps. More than anything, however, they are an initial attempt at what should be a far larger effort to explore the economic underpinnings of human rights abuse in the rural sector in Sudan.

[214] Young, Helen, Abdal Monium Osman, Yacob Aklilu, Rebecca Dale, Babiker Badri and Abdul Jabbar Abdallah Fuddle: *Darfur: Livelihoods Under Siege*, Feinstein International Famine Center, Tufts U. / Ahfad U., Medford MA / Khartoum, 2005; EC/FAO/USAID: "Markets, Livelihoods and Food Aid in Darfur," Khartoum 2005.

Mechanized Schemes and Other Aspects of 'Modern' Agriculture

The Problem

Three sectors comprise Sudanese crop agriculture: the traditional rain-fed sector, the rainfed mechanized farming sector and the large irrigated scheme sector. The latter two form Sudan's so-called 'modern' agriculture.

The traditional rain-fed sector consists mostly of subsistence farming. It provides a livelihood to as many as 70 percent of the rural population, but accounts for a smaller share of the agricultural GDP (56 percent).[215] Traditional farming in Sudan is often shifting in nature, as farmers seek to maximize returns on arid lands with irregular rainfall and low levels of agricultural inputs (fertilizer, pesticides, etc.). There is a strong overlap between the traditional crop sector and the livestock sector: all but the poorest sedentary farmers also raise animals, and many nomadic pastoralists also plant crops.

Mechanized rain-fed schemes are found in the sandy soils in the west and east of the country, and increasingly in Upper Nile and Blue Nile states. The schemes are in reality only semi-mechanized: tractors plough and sometimes help harvest, but the schemes rely heavily on cheap manual labor. The main crops are sorghum, sesame and groundnuts. In theory, the state leases land to investors within designed perimeters and enforces sound farming methods. In practice, the mechanized sector is an economic free-for-all. Private investors gain access to land through political connection and bribes, and farm the land with little regard for the soil or the people who live on it.

Large irrigated schemes – both gravity and pump – make up much of the clay soils of central and eastern Sudan, and to some extent in the far eastern regions of the Tokar and Gash deltas. The main irrigated schemes include Gezira, ar-Rahad, al-Suki, Halfa Jadida (New Halfa) and others. Smaller schemes line the White and Blue Niles. The main crops are cotton, sugarcane, cereals and sesame. Historically, these schemes have been run by the state, although the NIF government privatized some irrigated schemes in recent years.

Throughout the last hundred years, tension between the traditional and modern sectors has dominated agriculture in Sudan. Although the former is the principal livelihood of the overwhelming majority of the population, successive governments, from the colonial authorities to the NIF administration, have systematically favored mechanization and the modern sector. Every one of these governments has attempted to assert political control over restive local populations, maximize export earnings, develop cheap sources of staple foods, reward political supporters, and draw external monies.

This history of agricultural modernization has adversely affected the rural poor. In the name of modernization, the state has enacted legislation that removes the land from the control of local communities -- and sometimes removes the local communities from the land. The promotion of mechanized schemes has empowered external investors whose motivation is rapid profit: in the risky climatic and security environment that is Sudan,

[215] World Bank, "Joint Assessment Mission Sudan" (vol. III), 2005: p. 116.

this often translates into highly abusive environmental and labor practices. They take over the land, clear it of tree cover, and farm it to exhaustion using local people as cheap wage labor. When the land is dead, they move on. Or, if the market does not justify planting, the investor simply does not plant. And those who work the land, whether local or migrant, are left with exhausted lands, plummeting yields and no wage income.

The impact of modern agriculture is varied. In some cases, such as the irrigated schemes, modern agriculture has offered employment to hundreds of thousands of migrant workers from southern Kordofan (Nuba), Darfur and West Africa, as well as to internally displaced people from South Sudan. In some parts of the country, the emphasis on modern agriculture has just been another aspect of the marginalization of rural communities. However, in other parts of Sudan, such as the Nuba Mountains and more recently in Upper Nile and Blue Nile states, the situation differs. In these areas, since the NIF came to power in 1989, mechanized farming has dovetailed with the regime's political and military aims. In agriculture, as in other aspects of its policies, the NIF has implemented policies that are, broadly speaking, similar to those of its predecessors, but more aggressive, more virulent and more harmful to rural communities.

The following sections outline how predatory modern agricultural concerns prey on the rural poor in Sudan – impoverishing and displacing them, destroying their land, ruining their livelihoods – and how mechanized schemes have both served and been served by the NIF's military and political strategies.

Legalizing landgrabs

The expansion of mechanized farming in Sudan takes place under cover of the country's formal land laws, which supersede customary land laws. This tension has been described by one observer as "the confrontation between legality and legitimacy, or in other words the non-legitimacy of the Sudanese legal 'land' framework for a majority of the population…"[216]

Everywhere in Sudan, farmers know who the land belongs to, who is allowed to plant and who is not. But, as elsewhere in Africa, most rural communities in Sudan do not usually formally register individual title to land.[217] Rather, the community tracks individual claims to given pieces of land on the basis of the use of the land: if a farmer uses the land, it is his (seldom hers); if he fails to cultivate it for a given period, he may lose his 'right' to the property.[218] Thus access to the land and use of it are traditionally more relevant than actual ownership.

[216] De Wit, Paul: "Legality and Legitimacy: A Study on Access to Land, Pasture and Water," FAO, Khartoum 2001: p. 6. Some of the customary land practices, especially with regards to pastoral tenure, were in fact the result of British manipulation of tribal leadership structures in the early 1900s.

[217] However, some of the historical pre-colonial kingdoms of Sudan had land registration systems whereby the monarch granted land to his vassals, through a charter (*wathiga* in the Funj Kingdom of central Sudan) or a concession (*hakura* in the Sultanate of Dar Fur, western Sudan). See Shazali (n.d.): pp. 5 and 10; see also: O'Fahey, R.S. and M.I. Abu Salim: *Land in Dar Fur: Charters and Related Documents from the Dar Fur Sultanate*, Cambridge 2003: pp. 12-18.

[218] For an example in Darfur, see de Waal, Alex: *Famine That Kills*, Oxford 1989: p. 47.

Customary land law is no panacea. Custom has not been able to cope with increased pressures on the land that are the result of growth in both the human and the livestock population. In many instances, custom is iniquitous, especially with regards to the rights of women. But the value of customary land law resides in the fact that, for better or for worse, the community is in charge.

The relationship between local communities and land is vulnerable in several respects. First, control of the land is closely tied to the community's traditional leaders. These leaders are the guardians of the rights of the community: they allocate land, adjudicate disputes and generally act as custodians of customary law. But the government can also subvert these leaders to serve its purposes. The NIF government has made a policy of this practice in Kordofan and in Darfur, as well as in frontline areas where it enlisted local strongmen in its war against the SPLA.

Second, modern land laws easily trump customary law. Land legislation in Sudan is the cornerstone of a process that takes land away from local rural communities. Over the past 100 years, under successive governments, economic elites who controlled power in Khartoum have shaped land laws and institutions that provide them both legal cover and practical instruments for their exploitation of poor rural people.

British colonial authorities laid the basis for the dispossession of local farmers through the 1899 *Titles to Land Act*, passed within a year of their victorious return to Sudan, and which rested on the notion of continuous cultivation.[219] Since independence, every new law pertaining to land and local administration has increasingly restricted the rights of local people. In 1970, the government passed the *Unregistered Land Act* which stated that any land that was not privately owned could be disposed of by the government. In 1971, the *Abolition of Native Administration Act* did away with the so-called Native Administration (*idara ahliya*) composed of the traditional leaders who served as interfaces between local communities and the government. It also removed the legal basis for the *dar*, or tribal homeland, which guaranteed through custom a community's access to land, water and grazing.[220]

In 1984, Jaafar Nimeiri's government passed the *Civil Transactions Act* – part of the so-called September (Shari`a) laws – which restricted the recognition of custom to those customary land laws that conform to basic Islamic precepts as interpreted by the Nimeiri regime, and its Attorney-General, Hasan al-Turabi. The *Civil Transactions Act* also

[219] The Act recognized lands that were under permanent cultivation as privately owned land: in essence these were the lands that lay along the Nile River, and between the Blue and White Niles. The Act recognized no private property in the rainlands of central, eastern and western Sudan (as well as of all of the South), which were considered government land that was either subject to no right other than that of the government or subject to tribal custom. The former had very little protection, and formed the first large irrigated and rain-fed schemes (Gezira, Tokar, Gash) and others. The latter was somewhat protected by the notion of usufruct – the right over land that comes from cultivating it – but colonial authorities systematically worked to reduce usufruct rights (Shazali (n.d.): pp. 5-11).

[220] The concept of *dar* is especially relevant to pastoral communities and to the larger tribes of Darfur (including sedentary communities). It is less common for settled communities in other parts of Sudan.

articulated what was later to become a central tenet of how the NIF perceives natural resources, including land: "Land is God's and the State is made successor and responsible for it and owns it. All lands are deemed to be registered under the name of the State and that the provisions of land registration and settlement act were considered."[221] In essence, the holder of political power is there by the will of God, and as the upholder of Islamic law has a God-given right to all resources available.

The land laws were comprehensive in nature but, as an FAO study noted, "the 1970 and 1984 Acts were never applied on a routine basis. However, the GOS used these Acts whenever and wherever it deemed to be appropriate, instigating a high degree of insecurity."[222]

In fact, before the NIF came to power, the state was probably not strong enough to apply these laws everywhere, all the time. In Darfur for instance, the inter-tribal consensus over land – which group owned what land, and who spoke for each tribe – was such that the government had difficulty imposing external investors who were not tied to local groups. Nevertheless, the arbitrariness of how the laws were applied, and the fact that they could easily be applied against politically weaker communities such as the Nuba or the Ingassena or Southerners, or could be invoked to support an especially powerful investor, made them highly disruptive.

The NIF, after taking power in 1989, moved even further to undermine the rights of rural communities. Amendments to the 1984 *Civil Transactions Act* in 1990, 1991 and 1993 removed any chance of legal redress against the state: "No court is competent to deal with any suit, claim or procedures on land ownership against the Government or any registered owner of investment land allocated to him." The interests of the regime and its supporters are now beyond the law. All cases underway before the courts were reportedly thrown out.[223]

The Nimeiri years and the Breadbasket Strategy

Post-independence governments continued the policy of expanding mechanized schemes, with financial and intellectual assistance from the World Bank.[224] The military regime of Jaafar Nimeiri, which came to power in May 1969, placed added emphasis on mechanized agriculture as part of a breadbasket strategy that was to make Sudan a primary supplier of foodstuffs to the Arab world. In 1969, the government created the

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[221] Quoted in Ajawin, Yoanes and Alex de Waal eds.: *When Peace Comes: Civil Society and the Future of Sudan*, "Chapter 6: Land Rights, Natural Resources Tenure and Land Reform" (based on contributions by Gamal Ali el Tom, Suleiman Rahhal and A. H. Abdel Salam), Red Sea Press, Lawrenceville NJ 2002: p. 134.

[222] De Wit (2001): p. 11.

[223] Ajawin and de Waal (2002): pp. 134-135.

[224] Elhassan, Abdalla Mohammed: "The Encroachment of Large Scale Mechanised Agriculture: Elements of Differentiation Among the Peasantry," in Barnett, T. and Abbas Abdelkarim eds.: *Sudan: State, Capital and Transformation*, Croon Helm, London 1988: p. 165. According to Elhassan, the World Bank supported scheme-holders "in accordance with its policy of helping 'small farmers.'"

Mechanized Farming Corporation (MFC), which became the sole operator of state-owned farms, leasing plots to investor farmers. The International Development Association (IDA), which provides interest-free loans and grants for the World Bank, made several loans to assist the MFC provide technical assistance, purchase machinery and help in marketing.[225]

Mechanized farming under the NIF: Continuity and Mutation

Once the NIF seized power, things changed. In the first half of the 1990s, governmental priorities went from an ill-conceived breadbasket strategy laced with run-of-the-mill cronyism to an ideological enterprise to transform Sudanese society, while all the time furthering the regime's economic and commercial interests. The NIF applied new tools suited to the task: an unprecedented capacity for political and military repression; an ideological vision of a Sudanese Islamic society (*al-mashrou' al-hadhari* – 'the civilization project'); and strong financial connections to extremist Islamic circles in Saudi Arabia and the Gulf. It launched the 'comprehensive call' (*ad-da'wa ash-shamla*), a set of principles under which local governors could launch Islamization campaigns in areas where the presence of Islam was either partial or suspect, such as the Nuba Mountains, Southern Blue Bile and even Beja areas.[226] In 1992, the NIF declared – and launched – *jihad* in the Nuba Mountains.[227]

Mechanized farms were both a means and an end in the NIF ideological project. In Southern Blue Nile, for example, the NIF used employment in mechanized schemes to attract Fellata people (Sudanese of West African origin, ignored by successive Sudanese governments, whom Turabi was courting as a potential political base for the Islamist movement) as part of its strategy to bring a purer Islam to Funj and Ingassena, areas considered suspect. It was reported that some of these schemes also doubled as training camps for Popular Defense Forces (pro-government militia) and even foreign fighters, what one observer dubbed "[t]he nexus of commercial agriculture, military training and *al da'wa al shamla*…"[228] On the other hand, in the Nuba Mountains, from 1992 on, government forces forcibly relocated Nuba populations into so-called 'peace villages' where the displaced were forced to provide cheap labor to mechanized farms. Having a captive labor force is invaluable to the scheme-holders who often find that they lose workers to the traditional farming sector during weeding and harvest, the times when they need them most.[229] Some displaced were made to work in large labor camps, like Abu Jibeha and Rahmaniyya, while others worked in smaller schemes.[230] In other cases, the

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[225] Federal Research Division of the Library of Congress: Sudan Country Study, website, at http://countrystudies.us/sudan/55.htm .

[226] The regime considers at least some Beja groups to be un-Islamic because of their traditional practices, despite the fact that the extreme social conservatism of many Beja exceeds even that of the NIF (African Rights (1997): p. 193).

[227] Abdel Salam, A.H. and Alex de Waal: "Islamism, State Power and Jihad in Sudan," in de Waal, Alex ed., *Islamism and Its Enemies in the Horn of Africa*, Indiana U. Press 2004: pp. 89 and ff.

[228] Abdel Salam and de Waal (2004): pp. 96-97.

[229] Justice Africa: *Facing Genocide: The Nuba of Sudan*, London 1995: p. 128.

[230] Justice Africa (1995): pp. 271-275

population is cleared expressly to make room for mechanized schemes. This has happened in Upper Nile and Bahr al-Ghazal in the first half of the 1990s, as well as in Nuba and Southern Blue Nile.[231]

By the mid 1990s, the ideological thrust of the regime started to show signs of having run its course. The reasons for this included the political rivalries within the NIF, a dismal economic situation, setbacks in the war with the South and popular opposition in the North. The Turabi-Bashir split followed by Turabi's fall from power was the final seal on the end of the regime's ideological phase. What remained, in terms of NIF policy, was the continuing desire to make money and stay in power.

Again, developments in mechanized farming have mirrored those of politics. The regime has liberalized investment and trade regulations, creating more opportunities for profit. Rampant corruption makes it easy for investors to gain access to land. At the same time, the government's regulatory behavior is unpredictable and corrupt. Businessmen believe they must maximize their investment in as short a timeframe as possible. Areas where there is still land, such as Blue Nile and Upper Nile, have become a free-for-all. As one commentator put it, "The [Sudanese] State had evolved […] to an opaque land manager without a management plan."[232]

Geographically, there is evidence from around the country that the expansion of mechanized farms is ongoing in various parts of the country, even in low rainfall areas. In North Kordofan for instance, the State government gave 100,000 *feddan* in 2004 for mechanized cereal production, and reportedly plans to allocate a further 70,000 *feddan* in 2007.[233]

In South Kordofan, it had been feared that the 2002 Nuba Mountains cease-fire agreement would lead to increased mechanized activity, especially in areas that were previously off-limits because of fighting between government forces and the SPLA.[234] Recent visitors to Nuba report complaints about new land being allocated to outsiders and people coming back to take over existing leased areas, but it remains difficult to confirm whether the new leases issued are for areas that were already earmarked or for new areas. One long-term observer of the Nuba Mountains told CIJ that nearly 200 pre-war schemes in Um Lubia (in the western part of Rashad province, in South Kordofan state) that had not been exploited because of the violence were now being readied for farming – and that local communities were only given a half-dozen of the schemes. The local community, Togoi people, reportedly sent a delegation to the State capital Kadugli to complain in early 2005 and said that they would resort to violence to prevent cultivation on land they

[231] Keen, David: *The Benefits of Famine: A Political Economy of Famine and Relief in Southwestern Sudan, 1983-1989*, Princeton 1994: p. 94.

[232] De Wit (2001): p. 8.

[233] Babiker (2005): p. 9.

[234] Nuba Mountains Programme Advancing Conflict Transformation (NMPACT): "Displacement, Security and the Nuba Mountains Cease-Fire" in *Report of the Baseline Data Collection Exercise*, UNDP Khartoum 2003: pp. 23-24 (available at www.unsudanig.org).

consider theirs. It is felt the authorities want to move swiftly before the Nuba Mountains Land Commission, mandated by the peace accords, stifles further mechanized farming. There are also reports of new schemes planned in the northeastern Nuba Mountains in Um Selef, and in the villages of Miri and Kohliat, west of Kadugli, all areas that would have been vulnerable to SPLA attack.[235] International mediators and aid agencies have long recommended that a moratorium on new leases be included in the peace agreement protocols or in the interim national constitution, so far unsuccessfully.[236]

In Gedarif state, a recent report stated that “in the Gallabat-Douka area […] more and more land had been allocated by the state or illegally grabbed by farmers for the purpose of large scale mechanized farming of sorghum and sesame.”[237]

In Kassala and Darfur, insecurity has led to a decrease in mechanized farming. In Kassala, over the 1996-1999 period, acreage under mechanization decreased by eight percent, (50,000 feddan out of 900,000 were completely abandoned because of insecurity along the Eritrean border.) Thirty percent of the (irrigated) Gash delta became completely inaccessible. Mechanized investors in Sitit went from 30 in 1996 to zero in 1999.[238] As for Darfur, some reports from Khartoum indicate that investors who had agricultural equipment there are transferring it east.[239]

Numerous reports indicate that Upper Nile, Blue Nile and Southern Blue Nile – favored by decent rainfall and the decrease in conflict – have become the most active frontier for mechanized schemes. Investors bring Fellata and people from Darfur to work the land. They cut the trees and cultivate for two or three years, and then move on. The land on the 180-kilometer stretch between Kosti and Renk is “destroyed,” in the words of a frequent visitor to Upper Nile, and the expansion of schemes is moving south of Renk.[240]

The expansion of mechanized farming

Rain-fed mechanized farms have grown exponentially since the late 1960s. In 1968, mechanized schemes were thought to cover less than two million hectares.[241] By the mid-1990s, one estimate put areas under mechanized farming at just over seven million

[235] Interview, aid agency staff in Nuba Mountains, December 2005.

[236] Email correspondence from Nuba land and livelihood expert to CIJ, November 2005. Manger, Leif, Sara Pantuliano and Victor Tanner: “The Issue of Land in the Nuba Mountains,” NMPACT / UNDP, Khartoum 2003: p. 22.

[237] Babiker (2005): p. 23 (available at http:www.sd.undp.org).

[238] Abu Sin, Ahmed M. and Yousif Takana: “Civil Strife and Environment: The Sudanese Case,” The Environmentalists Society Rio+10 Review, EDGE, Khartoum 2002.

[239] CIJ phone interview, November 2005.

[240] CIJ phone interview, November 2005.

[241] Ajawin and de Waal (2002).

hectares.[242] Government projections say that figure could reach 10.3 million hectares by 2010.[243] In 2001, an FAO study cited a figure of 25 to 30 million *feddans*, or 10.5 to 12.6 million hectares (one *feddan* is more or less one acre, or 0.42 hectares) under mechanization.[244] Due to illegal or undocumented land appropriation, the area actually under mechanized cultivation is probably substantially higher than what is officially on the books.

The reality is that no one knows the actual acreage of mechanized schemes. Part of that is of course that official statistics in Sudan are unreliable. But the real reason is that most of the mechanized farms extend well beyond the perimeter originally allotted by the authorities (*kharij at-takhteet*, 'outside the planning' – so much so that there may be far more land under mechanized cultivation *outside* the scheme perimeter than inside. Many investors do not even have any legally allocated lands at all: they are on the land by the power of their political connections or by their ability to pay bribes, the two often going hand-in-hand. The irony is that rain-fed mechanized farming has moved, both physically and legally, beyond the regulatory framework that had been carefully crafted to favor its expansion.

The following illustrative example sets forth the method by which mechanized farming schemes are obtained, and expanded – often illegally.[245]

An investor, usually from northern or central Sudan, contacts the land distribution office in the State capital. Officially he leases 1,000 *feddan* within the scheme master-plan, i.e., the area officially designated as part of the project. But in reality, he is able to access as much land as he wants after payment of a bribe, often a modest 'fee'.[246] The actual area cultivated may be several times larger than the 'on-map' farm. There is no limit to how much land one can acquire per year.

Running a scheme requires an initial outlay in fees, bribes and capital equipment. It also requires the management of labor and marketing. That is why outsiders are the prime actors in mechanized schemes: businessmen and investors, army and security force officers, big city merchants, *jellaba* traders, government bureaucrats. In some cases, remote investors will team up with a broker or scheme manager who will manage the investment for them. Under the NIF, commercial 'investment' companies have increasingly been investing in

[242] Mohamed, Eldaw Ahmed: "Sudanese Agriculture 1990-1997: Policies, Production Trends and International Competitiveness (Summary and Conclusions," German Development Institute, Bonn 1999 (available at http:www.die-gdi.de).

[243] Catterson, Thomas et al.: "USAID Integrated Strategic Plan in the Sudan 2003-2005: Environmental Threats and Opportunities Assessment," USAID 2003: p. 18, quoting Sudanese government figures in a IUCN bio-diversity report.

[244] De Wit (2001): p. 7.

[245] Based on a CIJ phone conversation with a professional colleague who had recently spoken to a land management official in Damazin, November 2005.

[246] CIJ has heard, but cannot confirm, that the 'rate' in the Damazin area is SD 50,000 per 1,000 *feddan* of off-the-map land, i.e., $200 per one thousand acres ($476 per 1,000 ha).

mechanized schemes, including foreign companies. Local farmers are usually unable to invest because they are too poor or not well enough politically connected. Local Arab farmers or pastoralists, who may have an easier relationship with the authorities than say Nuba or Funj, are usually also too poor to invest.

The first year, all the tree-cover is cleared and sold as charcoal in the towns of central Sudan. The profits of the charcoal operation are normally more than enough to off-set the initial investment in the scheme.

Sometimes the investor will use local people as labor, sometimes the very people whose communal land it was to begin with. This has often been the case in the Nuba Mountains: local communities end up as underpaid wage laborers on their own land. In some cases, when the local people either are not cultivators or have been displaced by violence prior to the arrival of the scheme, scheme-owners have to import farm workers, often Fellata, Nuba or people from Darfur. Sometimes, the original dwellers are still around and the scheme-holder brings in outside labor because it is more pliant. Relations with local people are often fraught. Scheme-owners have to be more careful in Kordofan and the Butana area, because nomads there are armed and sometimes bellicose. Things are somewhat easier in Upper Nile, Blue Nile and Southern Blue Nile. Still, most scheme owners hire local guards. Violent clashes are commonplace. Violence and murder occur.

Mechanized farming produces yields of increasingly diminishing returns. For example, during the first year of a mechanized scheme, a good crop may bring five to six bags of sorghum per *feddan* (about 600kg); by the second and third years, that figure could drop by more than 40 percent. In some extreme cases in Gedaref, yields have gone from eight bags per *feddan* to one.[247] Once the yield is down (often because the soil is depleted), the investor moves on to more fertile ground elsewhere and begins the process anew: he appropriates more land, cuts down more trees, farms the land to exhaustion and then moves on again.

Consequences of predatory commercial agriculture

Strip farming: destruction of the land

Mechanized schemes require far less investment than irrigation systems. They can be established quickly – and cheaply dismantled once the land has been leached by the destructive practices that a rapid profit demands. A USAID environmental study of Sudan described these practices as follows:

> Carried out mainly as non-farmer financed, agribusiness enterprises producing sorghum and sesame, large areas within the low rainfall belt were cleared of vegetation and put under the plow. In an effort to keep costs down by avoiding weeding, large blocks (typically 1,000 *feddans*)

[247] Ali, A. M. Elnour A. Elsiddig and A. A. Dehaib: "Resource Based Conflicts: Some Cases from North Sudan," Sudanese Environment Conservation Society (SECS), Khartoum 2002: p. 4.

> were disced extensively only after the onset of the early rains when weed and other plant seeds sprouted. Low or erratic rainfall after the crop seeds were sown often meant that an entire annual crop could be lost and the only recourse was to plow it under and try again in the following year. Years of early discing have all but eliminated the seeds of any plants on these large areas and once abandoned, re-vegetation is slow or absent. There have been examples where after three or more years left in so-called fallow, almost no vegetation other than a few hardy *Acacia mellifera* seedlings have repopulated the area and begun the process of soil rehabilitation, leading critics to term this farming system as "mechanized desertification."[248]

Deforestation, either as a result of land-clearing for mechanized farming or as a separate commercial activity (charcoal production), is another problem, especially in areas where the Sudanese security forces see local communities as hostile, such as South Kordofan and Darfur. It has been a big problem in Southern Blue Nile, parts of which have switched back and forth several times between Khartoum and SPLA control. There the security forces have exacted what a Sudanese organization has called in a recent report "the conquerors' rights:"

> Some areas of the Blue Nile states were occupied by the opposing Coalition Army [the SPLA] during the period 1997 to 2001 when the [Sudanese] Army recaptured these areas. The general feeling of the Army officers and noncommissioned individuals, as conquerors, is that they have divine right in exploiting the natural resources of these areas. The FNC [National Forest Corporation] launched a national campaign to curtail the destruction of forests and established an emergency unit that included the Army and the Police in July 2002. During three days of the campaign (20-22 July) about 342 cases of violation were recorded. More than 70 percent of these violations were carried out by the Armed Forces (the Army and the Police)… Following orders from the Army headquarters in Khartoum, the FNC personnel in Damazine town started to record the license plates of the Army vehicles engaged in the charcoal and wood trade to pass them to the Army, but the vehicles stripped their plates and continued the illegal trade unhampered.[249]

Impoverishment

Mechanized schemes are iniquitous by nature, even if they are a source of wage labor. The destruction of the land leaves local communities impoverished and in some cases broken. When the scheme moves on, it takes years for the land to recover, if at all: local people no longer have their livelihood and they no longer have the scheme as a source of income from wage labor. The following data from the Nuba Mountains shows such an example of impoverishment:

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[248] Catterson et al (2003): p. 18.

[249] Ali and Dehaib (2002): pp. 6-7.

> In 1979 a calculation of the distribution of incomes on the schemes between the owners and the workers, i.e., between capital and labour, found that 53 percent went to the owner and 47 percent to the workers. But there are only one or two owners, compared with several hundred labourers, so the difference in income distribution is dramatic. The skewed income stream, coupled with the increased vulnerability of the once self-sufficient but now wage-dependent rural poor, further strengthen the already dominant position of northern merchants. Conversely, local farmers (and poor migrants from the south) become poorer and increasingly dependent on the schemes for their livelihoods.[250]

Displacement
Mechanized schemes and other abusive agricultural activities often lead to the displacement of local populations.

In some cases, displacement is a mere by-product of the destruction of local resources. Local people can no longer farm their land because it is exhausted. Pastures are depleted. Trees have been cleared, which alters local eco-systems, thus limiting activities such as the hunting and gathering of wild foods, fruit and honey that many local communities traditionally rely on for cash or to supplement their nutritional intake. On the other hand, income from the wage labor available on the mechanized schemes is not guaranteed. As noted above, the schemes seldom remain in a given area longer than a few years due to diminishing returns on crop yields. Also, investors and scheme managers plant with an eye to grain prices, and as a result may reduce (or expand) areas from one year to the next. For example, in one instance (among many), low sorghum prices led to a 50 percent reduction in planting in mechanized farms in the central, eastern and Upper Nile regions in 1999.[251] Such fluctuations place great stress on local communities who may suddenly be deprived of income they expected. In the face of such uncertainty and the destruction of their livelihoods, people often have to migrate in search of wage labor. Some go to other areas where there are schemes, either locally or in the 'scheme-rich' parts of central and eastern Sudan. Others seek wage labor in the large cities of central Sudan, which have experienced explosive population growth in the last 15 years.

Over the years, the government of Sudan has repeatedly displaced populations as part of its military strategy, either to 'break' communities considered hostile or to deprive the enemy of local support. Commercial farming has often been a central tool in these military strategies, and has in turn benefited from them. In some cases, the aim has been to gain tactical military advantage by securing territory. During the war in the South, the army developed mechanized farms around garrison towns in the South such as Wau as

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[250] Manger, Pantuliano and Tanner (2003): p. 10.

[251] FAO/WFP: "Crop and Food Supply Assessment Mission to Sudan – Special Report, Khartoum January 2000 (available at www.fao.org). Of course, there are wide variations in areas planted in the traditional rain-fed sector as well, but those are decisions made by local people, not imposed on them.

part of a government 'oil spot' strategy to increase its military control.[252] In the Nuba mountains for instance, mechanized schemes provided labor to large displaced populations, making it possible for the NIF to implement its strategy of 'combing' (*tamsheet*), the aim of which was "the obliteration of everything that exists in the areas not under the direct day-to-day control of the government forces," and which resulted in massive displacement and dislocation.[253]

Islamization

In other instances, the government uses mechanized farming to serve its broader strategic goal: furthering the Islamization of Sudanese society,: *al-mashrou` al-hadhari* (the civilization project). Nowhere is this clearer than in Southern Blue Nile, where the NIF has used agricultural schemes to bring Fellata and Darfur groups (both Arab and African) to areas whose Funj and Ingassena populations it considered inadequately Muslim. According to a Southern Blue Nile traditional leader interviewed in 1997:

> 'Under the cover of al da'wa al shamla [the Comprehensive Call], they [the government] organised the Fellata, claiming they were better Muslims. They confiscated land and gave it to the Fellata. This is one of the main reasons why people went to the opposition [the SPLA]. For example the Jandel [agricultural] scheme, which was created by the NIF after it took power. Most of the land on this scheme is cultivated by the Fellata. All the workers are Fellata. The government said that it is necessary to invest in the land and for that reason the Fellata must be brought. Jandel created a lot of problems for us, that we did not have with the [longer-established] Takamul scheme.'

The authors go on to comment:

> In passing, we should note that the Jandel scheme was financed by a company owned by Usama bin Laden, who was resident in Sudan at the time. It was also used as a training camp for the PDF [Popular Defense Forces] (and, according to local reports, foreigners as well)."[254]

The impact of these policies is made clear in the reported ethnic composition of 16 villages around Dinder National Park, in Blue Nile, an area of heavy mechanized farm encroachment. A list of these groups in a recent report by the director of the Sudanese Wildlife Research Center reads like a tribal map of Western Sudan, hundreds of miles from Blue Nile State: Massalit, Daju, Borgo, Fellata, Hawsa, Fur, Zaghawa, Riziegat,

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[252] African Rights (1997): pp. 252-253. In an 'oil spot' strategy, instead of search and destroy missions to kill insurgents, one secures major cities and expands the safe havens to the outlying areas (like an oil spot spreading), slowly gaining control of the region and establishing law and order.

[253] Justice Africa (1995): p. 159.

[254] Abdel Salam and de Waal (2004): pp. 96-97. CIJ does not know whether the "Jandel" scheme referenced in this passage relates in any way to the Jandil company discussed below that invested in a gum Arabic scheme (in various reports, that company is also spelled Gandale, Jandeel, Gandil and Gandail).

Nuba, Barno, Messeria, Bani Halba and Tama.[255] Many of these western populations were hard hit by successive droughts and conflicts in western Sudan. The NIF has actively encouraged their migration, often with their consent, to work on Blue Nile mechanized schemes (including the normally pastoral Rizeigat, Bani Halba, Messeria and Zaghawa). Some of these groups are among the African groups currently under attack by the government in Darfur: it is an irony that they are part of the NIF's strategy to oppress marginalized people elsewhere in Sudan.

Curtailment of pastoral rights

The expansion of mechanized schemes is especially destructive to pastoralists. This is not new. Twenty years ago, research on the Lahawin nomads of Kassala (eastern Sudan) revealed that:

> The encroachment on pastoralist grazing has been mentioned in various writings as one of the many harmful consequences of the expansion of mechanized farming in the Sudan. The forced settlement of Lahawin in areas where the resources for subsistence agriculture do not exist […] are striking confirmation of this… [T]he reduction of pastoralists into impoverished rural wage-laborers is clearly present.[256]

As noted above, the NIF regime has continued an aggressive policy of predatory mechanized schemes. Ten years later, a more recent observer laid out the consequences of mechanized schemes on pastoral life in South Kassala:

> The result is a situation in which pasture land is increasingly diminishing in area, nomadic corridors are disrupted; watering points becoming inaccessible; herds are forced to concentrate in small areas with consequent increased (forced) over-grazing and environmental degradation, and conflicts between farmers and pastoralist have continued to proliferate (to the detriment of the latter).[257]

In Gagrur, near el Obeid in North Kordofan, a group of White Nile nomads, displaced by mechanized schemes in their home areas, have seen their way of life completely undermined:

> The Sebeihat (40 households) are transhumant pastoralists who have their base camp in the vicinity of Gagrur… They raise cattle, sheep, goats and

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[255] Abdelhameed, Salwa Mansour: "The Role of Forests in the Development of the Rural Population In Dinder Biosphere Reserve, Sudan, " Paper submitted to the XII World Forestry Congress 2003, Québec 2003 (available at www.fao.org). Dinder National Park has suffered substantial wood-cutting and trespassing over the year, as a result of illegal mechanized schemes.

[256] Morton, John: "The Decline of Lahawin Pastoralism (Kassala Province, Eastern Sudan)," Overseas Development Institute (ODI), London 1988: pp. 13-14.

[257] Shazali, Salah: "State Policy and Pastoral Production Systems: The Integrated Land Use Plan of Rawashda Forest, Eastern Sudan" in: Ahmed, Abdel Ghaffar M. and Hassan A. Abdel Ati eds., *Managing Scarcity: Human Adaptation in East African Drylands*, OSSREA, Addis Ababa 1996.

> camels… The development of irrigation and mechanised farming schemes in their original homelands means that the Sebeihat no longer have land/*dar* in the White Nile area. They are now entirely dependant on settled farmers who act as their "hosts" for access to land and resources. The transhumant movements of the Sebeihat now living around Gagrur are extremely short, […] approximately 30km… Some of these Sebeihat (around 10 families) also cultivate a small area of land allocated to them by village leaders, on sharecropping arrangements.[258]

In the example above, the local sedentary groups, facing ecological and economic difficulties of their own, may at any time 'revoke' the access to resources granted to the once nomadic Sebeihat. As a result, the livelihood of the pastoralist group is highly tenuous. They are marooned in an area that is not theirs, and can expect to find little if any means of redress from police and judicial authorities unlikely to take any interest in their plight.

Likewise, the livelihood system of the Beja of eastern Sudan has been affected by schemes in the Gash and Tokar deltas (established by the British), which led to the loss of some rich traditional pastures and agricultural land. (At the same time, the Gash and Tokar schemes have provided some Beja with opportunities for wage labor and even land ownership, meaning that the schemes have not been entirely detrimental.[259])

Potential for future abuse in the commercial agriculture sector

More of the same?

While the era of large international donor funding for mechanized agriculture appears to be over, the expansion of mechanized schemes in Sudan actually remains in full swing. Several factors indicate that the government is unlikely to change its behavior, including the regime's efforts to liberalize the economy, the encouragement of foreign investors, the need to generate additional revenue and consolidate political patronage. The regime itself is changing. With the Comprehensive Peace Agreement and blowback from the Darfur crisis, the political mood in Khartoum is in flux. The future is uncertain for those in power. As a result, the general emphasis of the last years on making money rather than ideology will likely continue, and even increase as politically-connected investors seek to maximize their opportunities. At the same time, corruption is as rampant as ever, and therefore land is available to those with political power. Mechanized schemes will continue to expand.

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[258] Egeimi, Omer, Mohammed Abdel Mahmood and Abdeen Mohammed Abdella: "Towards a Local Peace: SOS Sahel's experience of conflict transformation between pastoralists and farmers at El Ain, North Kordofan State, Sudan," SOS Sahel / IIED, London 2003: p. 6 (available at www.iied.org).

[259] Manger, Leif: "Pastoralist-State Relationships Among the Hadedowa Beja of Eastern Sudan," *Nomadic Peoples*, vol. 5 nr. 2, 2001: p. 33; see also: Egeimi, Omar A.: "From Adaptation to Marginalization: The Political Ecology of Subsistence Crisis Among the Hadendawa Pastoralists of Eastern Sudan" in Ahmed, Abdel Ghaffar M. and Hassan A. Abdel Ati, eds., *Managing Scarcity: Human Adaptation in East African Drylands*, OSSREA, Addis Ababa 1996.

Peace is good for tractors
Another factor could, ironically, contribute to an increase in mechanized schemes: peace. Past experience in the Nuba Mountains and Kassala State show that, as conflict and insecurity increased areas under mechanized farming decreased.[260] The converse is also true: as conflict abates, schemes develop.

With the signing of the peace agreement, freedom of movement between North and South, and especially within the transition zones, has increased. Northern businessmen interested in Southern development projects are talking to Southern authorities and, for the first time in years, Northern traders are back on rural roads in South Sudan.[261] Areas that for years had been difficult to access, depopulated or too insecure to venture tractors into are now opening up. The fear is that predatory schemes will spread aggressively in areas where they have already been increasing such as Upper Nile and Blue Nile, as well as in South Kordofan (Nuba Mountains) and northern Bahr al-Ghazal.

What about Darfur?
At the moment, there is little real commercial farming in Darfur. The situation is far too insecure to launch large-scale agricultural works. In fact, there are reports that at least one large investor who had leased land in South Darfur is transferring his machinery east to Blue Nile and Gedaref where it can be put to more profitable use.[262] But the future could be different. Government and *jinjawid* violence has emptied large tracts of the more fertile areas of Darfur of their inhabitants, in what some observers see as a land-grab. Local Arab leaders have reportedly re-apportioned land that belonged to African communities -- Fur, Massalit and others.[263] The fear is that

> …the upheaval of the past eighteen months could open the gate to predatory investments in so-called modern agriculture – mechanized grain schemes, vegetable- and fruit-processing plants, honey-making, dairy and meat processing factories and so on – that are in fact attempts to separate people from their land or their livelihoods.[264]

Many people say that this can not happen in Darfur, that the consensus between the major tribes who have *hakura* (historical landholdings) is too powerful and that it will not allow external actors, including the state, to undermine it. The problem is that the violence has taken a terrible toll on inter-communal relations in Darfur. It remains to be seen how resilient traditional land agreements remain. Moreover, a precedent for commercial farming exists. The scheme of Sag an-Naam was established in the Nimeiri years on clay *wadi* soils south-east of el Fasher town; though poorer, these soils are similar to the land in western Darfur . According to one report, "both peasant farmers and pastoralists lost

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[260] NMPACT (2003): p. 23 (available at www.unsudanig.org). Abu Sin and Takana (2002).

[261] Interviews with recent visitors to Juba, Warab and Bahr al-Ghazal, November 2005.

[262] Interview, Sudanese source familiar with the situation in Darfur, November 2005.

[263] Tanner, Victor: "Rule of Lawlessness," Sudan Advocacy Coalition, Nairobi 2005: p. 36.

[264] Tanner (2005): p. 37.

their traditional land rights consequent of the state maintaining effective control over land with which it was legally empowered by the 1970 [*Unregistered Lands Act*]."[265] Like many other commercial schemes from that period, Sag an-Naam has not been a successful venture. But the experience does show one thing: if the state was able to brazenly impose its will in the relative stability of the 1970s, then it is hard to see why it could not do so in the violent context of Darfur today, especially considering that many farming communities are no longer there to defend their land. Once greater stability returns to the area, commercial farms – not only cereals, but also vegetables and fruit and commercial ranches – would be a logical next step in the NIF's strategy to control the fertile parts of Darfur it cares about, a strategy that is consistent with past NIF strategies elsewhere.

[265] El Amin, Khalid A.: "Drought, Adjustments in Economic Activities, Changes in Land Use and Land Tenure Forms in Darfur, Sudan," University of Khartoum 1999: p. 71.

Pastoralists and the Livestock Sector

Livestock is one of Sudan's primary sources of wealth, yet state policies dating back to the colonial period have made pastoralists some of Sudan's most vulnerable and marginalized populations. Recognizing the value of livestock, NIF policies have targeted the livestock sector as part of an effort to assert complete political and economic control over the country. The regime's economic exploitation of the livestock sector has been ruthless and thorough. While these policies have not necessarily been violent, the neglect and manipulation of pastoral communities has often led to communal and political violence, as demonstrated by the current situation in Darfur.

There is little research on the links between abuses in the livestock sector and how the NIF government and its supporters benefit from it. This section is the beginning of an attempt to fill that gap. After reviewing the particular nature of pastoral vulnerability to state abuse in Sudan, and setting forth how pastoral land tenure has been eroded, this section discusses how NIF policies in the livestock market further marginalize herding communities. With this background providing context, this section then examines the situation of livestock looting in Darfur, so widely reported to CIJ by NGOs, media and other sources.

Livestock in Sudan: wealth and vulnerability

A critical livelihood in Sudan

Livestock husbandry is both an essential component of traditional rural Sudanese society and a central pillar of its economy. Livestock provides a living to 20 percent of the country's population – the proportion represented by pastoral and agro-pastoral communities.[266] Herders raise an estimated 80 to 90 percent of the country's livestock.[267] Livestock is also a key element in the survival strategy for a majority of households in sedentary communities who practice traditional rain-fed farming. That which affects livestock affects Sudanese rural society.

In macro-economic terms, livestock is central to Sudanese activity and growth. In 2000, the livestock sector accounted for 62 percent of agricultural GDP and 23 percent of the overall GDP.[268] Between 1991 and 1999, the livestock sector grew at an annual rate of nearly 16 percent, the fastest growing non-oil sector of the economy, and while growth

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[266] Aklilu, Yacob, Patrick Irungu and Alemayehu Reda: "An Audit of the Livestock Marketing Status in Kenya, Ethiopia and Sudan" (Volume I), OAU/IBAR, Nairobi 2002: p. 56. Pastoralists and agro-pastoralists are communities for whom animal husbandry is a central economic activity. Most pastoralists are nomadic or semi-nomadic so their herds can graze, but many agro-pastoralists are sedentary and raise animals (sheep, goats) that require little movement or entrust their stock to nomadic communities.

[267] Ahmed, Abdel Ghaffar M., Alemayehu Azeze, Mustafa Babiker and Diress Tsegaye: "Post Drought Recovery Strategies Among the Pastoral Households in the Horn of Africa: A Review," OSSREA Addis Ababa, 2002: p. 1; Aklilu et al (2002): p. 56.

[268] Knips, Vivien: "Review of the Livestock Sector in the Horn of Africa (IGAD Countries)," FAO/AGAL, Rome 2004: p. 3. Only Somalia, off the charts because of the size of its livestock sector and the relative dearth of other economic activity, has higher figures for the pastoralist economy.

has slowed down since, it remained at over four percent per year between 2000 and 2004.[269] In 1999, livestock exports accounted for 25 percent of Sudan's foreign exchange earnings.[270]

More than just food on the hoof

For communities living in harsh and unpredictable environments, animal husbandry has been a natural development. Animals are more flexible than fields: they can be moved or sold in times of environmental or political stress; they provide economic opportunities other than food, such as transport or labor. For pastoralist communities, the herd becomes more than a livelihood: it is the symbol of its wealth, its survival, its identity even. For the Beja, Kababish, Dinka, Baggara, Zaghawa, Nuer, Rashaida and countless other groups, cattle and camels mainly are an integral part of manhood rituals, dowry mechanisms, marriage ceremonies and other markers of social life. For the group, livestock holdings reflect power and prestige. For the individual, acquiring animals is akin to climbing the social ladder.[271]

Livestock binds people together, not only within the group, but between groups also: the farmer depends on the pastoralist to manure his land, carry his harvest to market or herd his animals for him, while the herder needs the farmer for fodder or wage labor. Both need the other to trade. The two communities, sedentary and nomadic, are brought together by the seasonal transhumance of the herds – the movement of the animals north in the wet season to escape biting insects and disease, and south in the dry season for pasture and water. Livestock is the cement of Sudanese rural society.

Pastoral vulnerability and state abuse

Pastoralists develop capital through growing herds, but remain vulnerable to drought, famine and abusive policies. Like other rural assets, livestock is vulnerable to disease, drought, violence and taxation. But once depleted, herds are hard to recapitalize; pastoralist groups that lose their animals often undergo permanent change. Many Zaghawa of northern Darfur, for instance, hard struck by the great Sahelian droughts of the 1960s, 1970s and 1980s, relocated permanently among settled agricultural communities further south.[272]

The nature of pastoral vulnerability is often misunderstood. Conventional wisdom has it that herding communities are vulnerable to destitution because of reduced rainfall and

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[269] World Bank (2005): pp. 84 and 117-118.

[270] Aklilu et al. (2002): p.56.

[271] "A man with cattle attracts followers to him, poorer kin who have perhaps no other camp in which they can drink milk; so, by the very fact of ownership he is involved in more intensive manipulation of personal relations: his family grows. As his herd increases, so do his responsibilities." (Ian Cunnison (*Baggara Arabs*, Oxford 1966) quoted in Haaland, Gunnar.: "Social and Ecological Pressure in Southern Darfur," in Haaland, Gunnar ed., *Problems of Savannah Development*, Bergen, 1982: p. 62.)

[272] Harir, Sharif: ""Arab Belt" versus "African Belt" – Ethno-Political Conflict in Dar Fur and the Regional Cultural Factors," in Harir, Sharif and Terje Tvedt eds., *Short-Cut to Decay: The Case of the Sudan*, Uppsala 1994: pp. 162-163.

harvest failures (blame fate) or because the pastoral way of life is unsustainable and environmentally destructive (blame the victim). Neither analysis stands up to scrutiny. In fact, herding communities are vulnerable to drought and ecological degradation because they are peripheral to political interests and decision-making in Sudan. The process is partly passive in nature, through state neglect and a lack of investment in pastoralist communities. But it is also deliberate: over the years, the Sudanese state has implemented active policies of discrimination against pastoralists.[273]

Successive Sudanese governments before and following independence have implemented policies that further the political and economic interests of riverain elites (those originating from the Nile River Valley) in central Sudan at the expense of pastoralist communities. The aim has not been to destroy pastoralists, but rather to subjugate them. Sudanese governments (like many other African governments) have sought to (i) ensure a cheap supply of meat for urban populations, (ii) produce hard currency export earnings, and (iii) assert political control over pastoralist populations they often deem suspect.[274]

The geography of Sudan bears witness to this process of active abuse: the areas where pastoral communities are the highest proportion of the population are also the areas that are most marginalized and that are or threaten to be the scene of violent conflict: Kordofan, Darfur, the East, and the greater South.

The NIF government has implemented similar policies to those of its predecessors. What makes it different, however, is that it has been both more ruthless and often more effective in its action. In the last 10-15 years it has embarked on aggressive policies of commercialization of the livestock sector through exclusive concessions and monopolies to exporters. As a result, many herders have been forced to abandon their traditional nomadic livelihood and instead eke out a precarious living as cheap wage labor in the mechanized farming sector or in urban shanties. Instead of bolstering the economy, these policies have increased destitution, displacement and violence.

Erosion of pastoralist land tenure rights

Pastoral land tenure in Sudan[275]

Animals require large pasture areas, yet pastoral communities' claims to land have steadily grown more tenuous. Herds move along seasonal transhumance routes – south in the dry season and north during the rains – that can be hundreds of kilometers long.[276] Transhumance brings herders in contact with farmers and animals with crops, creating

[273] Shazali (n.d.): p. 9.

[274] Manger, Leif: "Pastoralist-State Relationships Among the Hadedowa Beja of Eastern Sudan," *Nomadic Peoples*, vol. 5 nr. 2, 2001: p. 29.

[275] The following is based on Shazali (n.d.): pp. 10-12; and Ajawin and de Waal eds.(2002): pp. 125-126.

[276] Transhumance routes in Darfur can be over 670 kilometers long, see Al Massar: "Pastoralist Baseline Survey, Greater Darfur, 2003," Khartoum 2003: p. 63. For transhumance routes in Kordofan, see United Nations Development Program (UNDP): "Transhumance Routes in N. Darfur, N. Kordofan and Sobat Basin," Khartoum 2002: pp. 3-4 and 9-10 (available at www.sd.undp.org).

both interaction and conflict. A host of traditional customary mechanisms regulate the interaction between farming and herding groups. Successive central governments have consistently undermined local conflict-regulating mechanisms. Their reasons have been political, but also economic.

The British sought to regulate farmer-herder relations by establishing usufruct rights which, in theory at least, guaranteed access to land, and were administered by a so-called Native Administration (*idara ahliya*), based on the notion of a tribal homeland or *dar*. The native administration system was successful in securing local pastoral access to grazing and water through the establishment of boundaries between farms and grazing. At the same time, colonial rule laid the basis for the notion that Government 'owned' the rangeland, not the people who used it, and that the government could withdraw usufruct rights, especially if economic imperatives so dictated.[277]

Legal mechanisms diminish land tenure rights

Successive governments in post-independence Sudan moved to limit pastoralist access to land, increasingly aggressively after Nimeiri came to power in 1969. First, the 1970 *Unregistered Land Act* officially established all land without title as government property – covering all the rain-fed rangelands of the West, East and South Sudan where the great majority of pastoral groups live. This meant that "in theory, any pastoralist could take his animals to any 'empty' land, and any cultivator could register and cultivate any uncultivated land." In fact the *Unregistered Land Act* opened the door to abusive mechanized farming, "pushing [pastoralists] to the margins."[278] Then, in 1971, the *Native Administration Act* abolished the native administration, removing what little guarantee of access and redress pastoralist communities retained. Since independence, most non-local legislation has ignored pastures, "which receive mention in passing, […] more often than not to impose restrictions upon grazing."[279]

Since seizing power in 1989, the NIF regime has placed a heavy emphasis on pastoralist affairs and the livestock sector. But appearances can be deceiving. The *Native Administration Act* of 1990 and especially the *Local Government Act* of 1998 re-established a form of native administration with the creation of emirates (*imaaraat*), mostly for the purpose of establishing pro-regime entities in rural areas. In concert with these acts, the government took highly symbolic measures that appeared to herald pre-occupation with pastoralist issues, such as the creation of a Pastoralist Union and a presidential decree on the reopening on transhumance routes blocked by agricultural schemes. In the 1990s, Darfur and North Kordofan enacted state legislation to protect pastoralist rights. Finally, the Comprehensive National Strategy (1992-2002) placed a strong emphasis on the development of the livestock sector as an engine for development in the country (see below the section on "skewed markets").[280]

[277] Shazali (n.d.): p. 12.

[278] Ajawin and de Waal eds. (2002): p. 125.

[279] Shazali (n.d.): p. 14.

[280] Shazali (n.d.): pp. 15-16.

Reality, however, stands in stark contrast to the rhetoric: the NIF regime has in fact not only continued but accelerated the marginalization of pastoralists. The New Native Administration structures are based on loyalty to the regime and do not, by and large, reflect pastoral needs, and are not responsive to them.[281] The state governor names (and dismisses) omdas and sheikhs, and local people view them essentially as tax agents for the state.[282] The Pastoralist Union "seems rootless within nomadic communities."[283] Official agencies designed to meet pastoralist needs languish. The Livestock Meat Marketing Corporation (LMMC), which had initiated a number of practical measures in favor of livestock producers such as water points and scales at livestock markets, was disbanded in 1993.[284] Another example is the systemic under-funding of the Department of Range and Pasture Management, the government entity responsible for protecting and regulating pastoralists' access to grazing.[285]

It is clear that the main priority of the NIF's economic focus has not been that of the pastoralists who raise the livestock. Instead, it has concentrated on enriching the welfare of the regime and its supporters.

Police and courts

The Sudanese justice system (both the police and the courts) discriminates against pastoralists. In the central Butana region (east of the Blue Nile and north of Gedarif), pastoralists heading south in October find the region's large mechanized schemes blocking their corridors. "Usually the police protect the cultivated crops. The herders accuse the police of blackmailing them even if their herds do not cause any damage to the standing crops in the field. Pastoralists have to pay fines to compensate any damage that occur to the crops."[286]

In Darfur, pastoralists express similar complaints, particularly the camel-herding groups of the North who have been hit hard by ecological changes of the last two decades: they say local farmers enclose traditional grazing areas (*zaraaib al-hawa*, 'wind enclosures') and that local law enforcement agents then charge them exorbitant fines, even taking livestock as collateral.[287]

[281] Shazali (n.d.): p. 16.

[282] UNDP: "Transhumance Routes in N. Darfur, N. Kordofan and Sobat Basin," Khartoum 2002: p. 7 (available at www.sd-undp.org).

[283] Salah (1996).

[284] Aklilu et al. (2002): pp. 58 and 60.

[285] Ibrahim, Abdel Rahman Abbakar: "Range Management in the Sudan: An Overview of the Role of the State" in: Ahmed, Abdel Ghaffar M. and Hassan A. Abdel Ati, eds., *Managing Scarcity: Human Adaptation in East African Drylands*, OSSREA, Addis Ababa 1996.

[286] Babiker (2005): p. 21 (available at www.sd.undp.org).

[287] Tanner (2005): p. 14.

In North Kordofan, a number of published reports refer to the fact that a company called Gandil has planted gum Arabic trees on traditional wet season grazing grounds (*makharif*) and has hired local police forces to protect its investment. One report states that "[d]ue to police patrols provided by Gandail Company, [the grazing] areas, which had previously not been cultivated by local people, have now been cultivated. These fields have blocked routes to the available source of drinking water for pastoralists."[288] A UNDP report confirms the use of guards with, however, no mention of police forces being used: "the project administration put guards and security personnel to prevent animals from entering and unjust and severe penalties are imposed in case of violations."[289]

In some cases, police protection can become a racket: according to UNDP's study of pastoral land tenure, "[as] police patrols are provided (for payments in both cash and kind by scheme-owners) to protect crops […] pastoralists find themselves forced to buy, even at relatively high prices, the residues [such as stalks and sorghum cobs] in the schemes along their routes to avoid having to pay damages." The report goes on to describe judicial bias: "[c]ases of crop damage are now settled in courts controlled by predominantly sedentary people biased against pastoralists. Assessment of crop damage and fine [sic] levied are so high that they bear no relation to the actual damage caused."[290]

Furthermore, the state is often unwilling to use the very laws that give it control over the land to enforce pro-pastoralist measures it has announced: in the Gedaref region, 47,000 feddan in the area of Kersh al-Feel that the authorities had declared dry season grazing for pastoralists have remained off-limits because farmers will not relinquish the land and remain unchallenged.[291]

Presidential decrees remained unfulfilled. For instance, the announced re-opening of pastoralist corridors in Gedaref State in the mid-1990s was blocked by "a powerful lobby of [mechanized] scheme owners."[292] State level legislation has proven counter-productive: in Darfur, the rigid demarcation of pastoral routes actually aggravated tension with settled communities, and in Kordofan the 1998 *Livestock Corridors Act* is simply viewed as ineffective.[293]

Skewed markets

[288] Egeimi et al. (2003): p. 15.

[289] UNDP (2002): p. 6.

[290] Shazali (n.d.): p. 14.

[291] Babiker (2005): p. 23.

[292] Ahmed and Ati eds. (1996).

[293] Shazali (n.d.): p.16 and UNDP (2002): pp. 7-8.

Livestock trading is a core economic activity in Sudan, accounting for 23 percent of GDP and 25 percent of exports ($100-125 million per year, on average). Sudan produces four types of animals:

- Camels are raised from Darfur and Kordofan in the west and the Red Sea Hills and Kassala in the east. They are not widely consumed as meat in Sudan, but exported to Egypt and Libya, mostly on the hoof.
- Sheep (from Darfur, Kordofan and the Butana region east of the Blue Nile) are marketed both domestically and overseas. They are Sudan's main livestock export, both chilled (in the form of slaughtered meat) and on the hoof, with Saudi Arabia taking up on average 80 to 90 percent of Sudan's exports.[294]
- Goats are mostly destined to the domestic market, with some exports of live meat and chilled meat.
- Cattle are raised primarily across the southern areas of Kordofan and Darfur. The South is rich in cattle, but not integrated into the northern market: southern cattle are exported to Uganda. Some southern cattle, however, are sold to northern traders in so-called peace markets like the one at Warawar, near Aweil in northern Bahr al-Ghazal.[295] With peace, trade in southern cattle could well increase. The market for cattle remains mostly domestic, though the NIF government has been aggressively seeking export markets for it (see below).

It is common for livestock markets in Africa – and elsewhere – to function to the detriment of the rural producer. In Sudan, however, a number of factors grossly distort the market to the disadvantage of the herder. This has increased in recent years as the NIF regime has aggressively sought to increase the sector's foreign exchange earning potential.

Overview of the Sudanese livestock market

Long distances separate the livestock-producing areas from the most active marketplaces, the so-called terminal markets, where the real money in livestock is made in Sudan. Distance makes it hard for producers in the areas of origin – which are for the most part the remote areas of the west (Kordofan and Darfur) and the east – to market their animals advantageously. Transport infrastructure is poor, and most animals have to be herded 600 to 1,200 kilometers to the end markets, with little pasture and water and no real facilities for the animals.

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[294] Economist Intelligence Unit (EIU): "Sudan: Historical Data – Main Exports," 6 September 2005.

[295] A 2003 UN report refers to this trade as 'huge" (UN Starbase, "Aweil East County Report," 8 July 2003: p. 9). A map in an OAU study of southern Sudan livestock markets shows "uncharted routes" from the northern areas of Bahr al-Ghazal, Unity and Upper Nile heading north; the report also comments that trade between SPLA areas and the rest of Sudan, including (the now former) garrison towns in the South, was limited because of the war (King, Alan and E. Mukasa-Mukerwa: "Livestock Marketing in Southern Sudan, With Particular Reference to the Cattle Trade Between Southern Sudan and Uganda," OAU-IBAR 2002: pp. ii and 3).

One recent study of pastoralism in Darfur identifies four livestock market levels in Sudan:[296] (i) local bush markets at village and town level where local people sell their livestock to local consumers or traders, and where prices are often depressed; (ii) large export-oriented markets in the main towns of Darfur, which act as staging points for the terminal markets; (iii) national markets of central Sudan, such as Omdurman, el Obeid, Kosti, Wad Medani, Dongola and Port Sudan, which serve both the country's larger urban populations and the export market; and (iv) export markets: Egypt, Libya, Saudi Arabia and the Gulf, as well as Chad and the Central African Republic.

The domestic market[297]

The Sudanese domestic livestock market has adapted to the issue of distance in various ways that work against the rural producer. The market is highly dominated by brokers and middlemen. Many of the brokers hail from the animal-producing tribes. But the trading networks that drain livestock-producing areas towards the larger markets are largely made up of Arab petty traders (*jallaba*) originally from central Sudan who act as agents (*wakil*, pl. *wukala'*) for large riverain merchants.

Hierarchy and longstanding personal relations dominate the market to the advantage of the wealthy and politically powerful traders of the end-markets. Most major markets function using a silent auction system in which only the buyer, the seller and the broker know the transaction price, allowing the large traders to exert power over smaller partners "in a manner that defies transparency."[298]

The high level of dispersion of the rural markets and the long distances to the terminal markets make livestock trading costly in terms of working capital. To counter this, traders operate under a 'trust' system, whereby payment is made only when the animal has made it to the terminal market and has been sold, often several months later. As a result, it is the producers and the small-scale traders in the rural areas who finance the trade and bear the risks and weight-loss costs of the long trek to the end-markets. After the trek, the animals are sold cheaply to end-market traders, including meat wholesalers, exporters and grain producers, who restore them in fattening lots before selling them for retail or export at much higher prices.[299]

To keep food prices low in urban areas, including that of meat, government action in the livestock sector ensures that rural producers, not end-market traders, bear the brunt of market uncertainty, as well as the numerous commissions, fees and taxes of the market. The policies that follow reinforce the inequitable structure of the market, shifting risk

[296] Al Massar (2003): pp. 74-78.

[297] The following analysis of livestock markets draws heavily on the excellent section on Sudan in Aklilu et al. (2002): pp. 56-76.

[298] Aklilu et al.(2002): p. 58. Detailed examples of how the system works can be found in Aklilu et al (2002): p. 59; Al Massar (2003): p. 76 and Babiker (2005): pp. 47-48.

[299] CIJ has begun to investigate specific end-market traders, but at the time of this report's publication, we are unable to provide publicly a comprehensive list of names.

onto producers – and away from the wealthier, more powerful, better connected end-market traders.

First, taxes and commissions are the highest in the Horn of Africa – there are, for example, reportedly over 20 points of taxation for exported sheep between the initial place of purchase and Port Sudan.[300]

Second, government institutions that sought to intervene in favor of rural producers were dismantled, such as the Livestock and Meat Marketing Corporation (LMMC) which dissolved in the early 1990s. Other institutions have sought its mantle, such as the Animal Resources Bank (ARB - *bank al-tharwa al-hayawaniya*) or the government of the state of Khartoum, but both are focused on the needs of the end-market traders, including exporters, while garnering important tax and fee revenue (more on the ARB below).[301] Meanwhile, rural markets continue to suffer a "lack of basic services like water, sanitary [structures], electricity and management."[302]

Finally, federal, state and local tax and import-export directives discriminate against producers and traders from marginalized areas. For instance, the May 2003 closure of the border with Libya damaged livestock producers in Darfur.[303]

The consequences of the skewed domestic market are clear. Prices at the end markets are far higher than in the production areas, often by a factor of two and sometimes four.[304] At the same time, the price of meat in Omdurman and Khartoum remained stable from 1997 to 2002, a clear illustration of the Sudanese government's urban bias.[305]

The export market

Sudan livestock exports totaled $137.8 million in 2004.[306] Of this, the export of sheep to Saudi Arabia is by far the most important component. The Saudi market is fond of the strong taste of Sudanese mutton. Sudan exports camels to Egypt. Libya was, until the May 2003 closure of the Sudanese border, also an important export market for camels (and sheep) from Darfur. The violence in Darfur has disrupted the trade, and new routes

[300] Aklilu et al. (2002): pp. 69-71.

[301] Aklilu et al. (2002): p. 73.

[302] Babiker (2005): p. 45.

[303] Young et al. (2005): pp. 74-75.

[304] Aklilu et al.(2002): p. 57. The Al-Massar 2003 report gives a step-by-step account of the Darfur-Omdurman cattle trade. An animal bought in Darfur for SD 60,000 is trekked to Omdurman where it is sold for SD 85,000 with expenses of SD 6,650, making for a profit margin of 30 percent. The wholesaler who buys and slaughters the cow in Omdurman can sell the meat for an estimated SD 120,000 with expenses of only SD 3,100 (assuming no fattening), i.e., a profit margin of 37 percent (Al Massar (2003): p. 84).

[305] Aklilu et al. (2002): p. 61.

[306] Economist Intelligence Unit (6 September 2005).

to Egypt have not made up for the losses.[307] The export market for cattle remains under-performing.

In 2003, it was reported that only 25 traders dominated the export market, but that following disputes with the government, only 12 were actively trading.[308]

The ratio of the value of exports of live livestock to chilled meat has been on average about ten to one in recent years. In 2003, there were four export-grade slaughterhouses in Sudan, including El Kadero (Omdurman), Ghanawa (Omdurman), Nyala abattoir in Darfur and Jimco. The Sudanese government has aggressively deregulated the meat-processing industry, and most large slaughterhouses are now privately owned.[309]

The NIF government has placed a heavy emphasis on promoting livestock exports. The 1992 Comprehensive National Strategy called for a three-fold growth in herds and for exports to increase twenty-fold.[310] The political significance attached to the effort continues with the direct involvement of such hardliner stalwarts of the NIF-regime (many of whom still hold positions in the new Government of National Unity) as Maghzub al-Khalifa (as Agriculture Minister), Abdul Hameed Musa Kasha (as Trade Minister) and especially First (now Second) Vice President Ali Osman Taha.[311] The government has also recently taken practical measures at home to bolster exports, such as the liberalization of foreign exchange regulations, tax exemptions for livestock and meat exports and simplified trade regulations.[312]

At the same time, however, the government has made a clear attempt to assert control over the lucrative market. Since the early 1990s, a drawn out struggle has pitted the administration against a group of powerful traders who traditionally dominated the livestock export market. The government jailed a number of exporters for foreign exchange fraud and failure to repay bank loans.[313] Recently, the struggle has continued as traders have successfully resisted government attempts to centralize livestock exports.

These attempts at centralization are the other aspect of the government's efforts to assert control over the market. A clear example of this is the heavy involvement in the

[307] EC/FAO/USAID (2005): p. 17.

[308] Aklilu et al.(2002): p. 63.

[309] Aklilu et al. (2002): p. 65. There have been conflicting reports on the privatization of El Kadero slaughterhouse, which was announced several times to different entities. Nyala slaughterhouse was forced to close in June of 2004.

[310] Ibrahim (1996).

[311] References: for Khalifa: "Egypt, Sudan Sign Two Deals on Meat Imports, Road Project," *Middle East News Agency (MENA)*, 2 November 2003; for Kasha: "Saudi Tycoon's Livestock Export Monopoly in Sudan Stirs Anger," *Panapress*, 23 November 2002; for Taha: "Until The Cows Come Home," *Business Today Egypt*, 21 October 2004. Some of these individuals now occupy different positions then those mentioned here.

[312] Aklilu et al.(2002): p. 72.

[313] Aklilu et al. (2002): pp. 63 and 72.

livestock sector, including in export-oriented slaughterhouses, of Salah Idris, a figure whom many associate closely with the NIF regime. Idris was the owner of the Shifa (Al-Shifa) pharmaceutical plant which the United States destroyed in August 1998 after the CIA claimed it was linked to Osama bin Laden and the manufacture of chemical weapons. In 2000, a number of Congressmen, led by Dana Rohrbacher, introduced a bill to provide payment to Idris of $50 million in compensation for his losses.[314]

Idris, after a successful career in Saudi Arabia at the National Commercial Bank (he is often referred to as a Saudi businessman), returned as an investor to his native Sudan in the late 1980s or early 1990s. He is from the same Arab Ja'ali tribe as President Omar al-Bashir, and knew his family and brothers before the 1989 coup.[315] Upon his return to Sudan, Idris found a land of opportunity: inflation and economic mayhem had created what Idris is later reported to have called a "buyer's market," and he acquired a large number of Sudanese businesses.[316] He showed special interest in the field of animal resources and acquired a stake in the Ghanawa Meat Trading Co. which runs the eponymous abattoir (slaughterhouse) in West Omdurman.[317]

The Ghanawa abattoir illustrates the close links between the public and private sectors in Sudan. The Animal Resources Bank, a government-owned company that in fact operates for profit with a specific focus on exports, established the West Omdurman abattoir at a cost of $13 million, and then sold it to the private sector.[318] While it is unclear whether Idris is the 'private sector' referred to on the ARB posting, the West Omdurman abattoir is an affiliate of the Ghanawa Meat Trading Company, according to the latter's website.[319]

Another governmental attempt to assert control over the export market is its effort to create export monopolies. In September 2002, Khartoum gave a $300 million exclusive contract for sheep exports to al-Walid bin Talal bin Abdulaziz al Saud, a Saudi royal prince with massive investments around the world (including in Citigroup, AOL-Time

[314] On September 25, 2000, a private bill, H.R. 5290 to provide $50 million in financial compensation to Idris was referred to the House Committee on the Judiciary; on September 29, 2000 the bill was referred to the Subcommittee on Immigration and Claims, but was never acted upon.

[315] "Owner of Hit Sudanese Plant Interviewed," *Al-Sharq al-Awsat*, 9 May 1999.

[316] Arabcomconsult (ACC): "Sudan Investment Report 2001," page on el-Nilein bank. Accessed by archive.net on 25 October 2004 and cached at: http://web.archive.org/web/20041025151718/http://www.arabcomconsult.com/sudan/nilein.htm.

[317] Arabcomconsult (2001). Accessed by archive.net on 25 October 2004 and cached at: http://web.archive.org/web/20041025151718/http://www.arabcomconsult.com/sudan/nilein.htm. Ghanawa is also an investor in Gulf Petroleum through El-Nilein Bank.

[318] Aklilu et al. (2002): pp. 73 and 76, and ARB website, cached at http://64.233.161.104/search?q=cache:JXqcqHijWJgJ:www.ar-bank.net/resources/e-about.htm+%22west+omdurman%22+abattoir&hl=en.

[319] From the Ghanawa Meat Trading Co. website, now cached: http://64.233.161.104/search?q=cache:TEWWt5rzZpMJ:ghanawa.50g.com/+%22west+omdurman%22+abattoir&hl=en.

Warner and New York's Plaza Hotel).[320] Other sources claim the deal was to cover camels and cattle as well.[321] Bin Talal became the exclusive agent for livestock and meat exports to Arab countries through a company called the Advanced Commercial and Chemical Works Company (ACCWC), and under his own Kingdom Holding Company. He created the Gulf Company for Livestock after the deal was signed.[322] But the Sudanese government was forced to backtrack in the face of opposition from Sudanese traders who reportedly took legal action, as well as from Saudi importers who lodged complaints with the Saudi government.[323]

Around the same time, the Sudanese government was seeking an agreement with Egypt to export chilled beef on a barter basis, in exchange for Egyptian consumer goods. The Egyptian preference was for the cattle to be slaughtered in Sudanese abattoirs under Egyptian supervision and exported frozen to Egypt. However, the on-again off-again deal never quite materialized (even though some shipments were made) in the face of, among other things, opposition from Sudanese exporters and Egyptian importers who have preferential ties to South American producers. Sudanese traders, in particular, accused Khartoum of undercutting the real price of livestock in Sudan – of selling too cheap – possibly in a bid to take control of the market.[324]

There is irony in the Sudanese government's concerted effort to take control of the livestock export trade: Khartoum first accused traditional exporters of undermining minimum export prices, using this to crack down on them; then the government sought to seal export deals that undercut producer prices, in effect 'dumping' the exported livestock.

Other new figures have emerged in the livestock market, according to people familiar with the market. While not as powerful or rich as Idris, they reinforce the pattern of politically-connected businessmen appearing out of nowhere and establishing powerful stakes in a market that has otherwise for years been dominated by well-established trading families.[325]

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[320] "Sudanese Traders Protest New Sheep Deal," *Middle East News File*, 20 November 2002.

[321] "Al-Walid Bin Talal to Build Hotel in Sudan; Exclusive Cattle Sales," *Saudi Arabia-Sudan Business*, 1 October 2002.

[322] "Saudi Billionaire Signs Agreement Worth US $330 Million in Sudan," *Associated Press*, 29 September 2002.

[323] "Saudi Tycoon's Livestock Export Monopoly in Sudan Stirs Anger," *Panapress*, 23 November 2002. Relations between leading Saudi and Sudanese livestock traders are close and span over half a century (Aklilu et al. (2002): p.63).

[324] "The Meat Politics Is Made Of," *Al-Ahram Weekly*, Issue 698, 8-14 July 2004.

[325] Interview, Sudanese source familiar with Darfur livestock markets, November 2005.

Potential for Future Abuse

There is little incentive for the current Sudanese government to change its abusive policies vis-à-vis pastoralist communities. In fact, current developments indicate that they are likely to continue.

At the global level, efforts to revise land tenure legislation are bogged down in the implementation of the Comprehensive Peace Agreement. In the short term, the likelihood of implementing legislative changes that empower pastoralist communities on the ground is low.

In Darfur, prospects are poor for a political settlement that could end the abuse of African sedentary agro-pastoralist communities and jump-start tribal reconciliation processes (*musalaha*), the only way these groups will get compensation for lost livestock. The longer the conflict lasts, the more permanent displacement threatens to become. The longer *jinjawid* groups remain on land that is not theirs, the harder it becomes to find a solution. Ironically, as the *jinjawid* (many of whom come from northern Darfur camel-herding communities) seek to reap the benefits of their crimes through increased livestock production, they in turn will be undermined by state policies that discriminate against rural livestock producers.

In eastern Sudan, simmering conflict bodes ill for the Beja people and their camel herds. In case of real conflict between Beja groups and Khartoum, livestock would be one of the first targets of the government.

On the North-South front, the advent of peace has brought two new types of peril. First, peace will make it easier for Sudan to attract external funding (whether aid money, loans or private investments), and in the livestock sector, that funding may well find itself promoting abusive policies. Of special concern are commercial ranches for sheep and goats which the NIF government encouraged as part of the Comprehensive National Strategy: some studies suggest that in order to be effective, a ranch would have to cover an area of about 150,000 *feddan* (about 65,000 hectars), which would create terrible problems for traditional tenure systems, both nomadic and sedentary.[326] Second, peace will open up areas of South Sudan to the abusive marketing practices that exist in the North as it is likely to be easier for certain southern cattle-herders to market their cows through northern Sudan.

[326] Manger (2001): pp. 30-31.

The Violent Consequences of Marginalization: Raiding and Armed Conflict

One of the consequences of the marginalization of pastoralist communities has been violence, both locally and regionally.

The upheaval of pastoralist patterns often leads to increased local conflict. Newly settled farmers put pressure on limited land. Increased cultivation shuts out traditional grazing areas and livestock corridors. Mechanized schemes may lead to conflict, not only between pastoralists and scheme-owners (or tenants), but also between pastoralists and non-scheme cultivators who may be easier for the herders to take on. This is what observers say has happened in North Kordofan as a result of the Gandil gum arabic scheme, which reportedly led to violence between pastoralists under stress and local farmers.[327] Other documented examples of such violence are numerous in anthropological and development literature on Sudan.

But the violence can also become endemic as impoverished herding communities turn to widespread violence to secure permanent access to pasture or to recapitalize their depleted stock. The violence can be extreme, and lead to systemic abuses of human rights, especially when the state harnesses the despair of the herders for its own purposes, as it did with Baggara militias in Bahr al-Ghazal in the latter 1980s and throughout the 1990s, and as it is doing in Darfur with the northern camel-herding *jinjawid*. It is a bitter irony in Sudan that human rights abusing groups are often themselves among the more consistently marginalized and oppressed groups within Sudanese society.[328]

In the mid-1980s, the Baggara Arab cattle-herders of the southern grasslands of Kordofan and Darfur came under tremendous pressure. The great Sahelian droughts of the 1970s and of 1984-85 had depleted their herds. The drought also drove both nomadic and sedentary communities from the more arid areas of North Darfur and North Kordofan to come seek better land and pastures in Baggara areas. While the newcomers were generally accepted and integrated into local production processes, this placed stress on Baggara livelihoods.[329] At the same time, mechanized agriculture had expanded dramatically in Baggara areas, putting pressure on pasture, water and transhumance.[330] Moreover, the war in south Sudan which had resumed in 1983 drove increasing numbers of southerners to seek refuge in the North, and their first point of entry was the territory of the Baggara. Finally, as with all pastoralists, the Baggara, while a powerful tribe, were neglected and underserved by the Sudanese state.

This is the context in which then Prime Minister Sadiq al-Mahdi took advantage of the disarray in which the Baggara found themselves and enrolled them as militia

[327] Egeimi et al. (2003): p. 15.

[328] Justice Africa makes this point in the Nuba Mountains context about the Baggara, themselves "an impoverished and marginalised group in Sudan," yet responsible for the implementation of much of the NIF's abusive agenda against the Nuba people (Justice Africa (1995): p. 23).

[329] Keen (1994): pp. 56 and 62.

[330] Keen (1994): pp. 54-55 and 62-63.

paramilitaries to fight the Sudanese army's war in Bahr al-Ghazal and the Nuba Mountains. President Omer al-Bashir later made the militias official with the 1989 *Popular Defense Act*. The violence between Baggara and Dinka was both extreme and sustained, and revolved around cattle-raiding and the abduction of children and women. Observers have noted that the cattle-raiding was highly organized and seemed to answer a clear economic imperative. Part of the incentive was to restock depleted Baggara herds.[331] Some analysts go further and say that feeding the export market was a primary motive for the looting of Dinka cattle.[332]

The current situation in Darfur is similar: the Arab camel-herding tribes of Northern Darfur, chronically neglected by the government, with no guaranteed access to water and pasture and under tremendous ecological pressure, agreed to be the agents of the government's vengeful counterinsurgency campaign against non-Arab communities that Khartoum suspected of sympathy towards the newly hatched Darfur rebellion.[333] (Despite considerable pressure from the government, Baggara leaders have refused to join the *jinjawid*.[334])

What makes the Darfur violence even more ominous, beyond the sheer magnitude of the destruction, is that counter-insurgency does not seem to have been the only incentive. In the fertile areas of West Darfur especially, villagers were displaced and have been since been prevented from returning to their land in a manner which makes on suspect that the violence was in fact a land-grab for water, grazing and arable land.[335]

The follow-on question cannot be avoided: was the desire for economic gain in the livestock sector a factor in the violence in Darfur?

The livestock sector and the violence in Darfur

As soon as widespread violence broke out against local communities in Darfur in spring 2003, Sudanese started musing on who stood to gain financially from the violence. At the same time, independent humanitarian and human rights analyses have posited, without elaborating, that material gain was probably a motivation in the violence. The Tufts team wrote in their comprehensive *Livelihoods Under Siege* report that "in conflicts such as this, political motives are often driven by economic interests. Easily transferable assets such as livestock ('assets on the hoof') provide the economic incentive to deepen and widen conflicts in pastoral and agro-pastoral settings."[336] Earlier, HRW stated that

[331] Keen (1994): pp. 98. Keen's discussion of the nexus between national and local interests is powerful and meticulously researched.

[332] Nyaba, Peter Adwok: "Trading Bridge in Northern Bahr el Ghazal: Transforming the Dinka-Baggara Conflict Through Increased Economic Activities in the Transition Zone," Bonn International Center for Conversion (BICC), Bonn 2002: pp.7 and 14 (available at www.bicc.de).

[333] De Waal, Alex: "Counter-Insurgency on the Cheap," *London Review of Books*, 5 August 2004.

[334] Tanner (2005): pp. 22-23.

[335] Tanner (2005): pp. 25-27.

[336] Quote from Young et al. (2005): p.70.

"[t]he willingness of some members of the nomadic groups to take part in the conflict as an auxiliary force is no doubt linked to their interest in acquiring land and livestock."[337] However, beyond general statements, there is little real analysis of whether money had been or is made in the Darfur conflict – and if so, how it is made and who makes it.

Conspiracy theories
It is important to first address one of the more oft-heard conspiracy theories in Sudan, that the violence in Darfur is a follow-on to recent developments in the livestock sector – including the widespread livestock investments by Sudanese tycoon Salah Idris, widely believed in Sudan to be closely connected to the NIF government, or the September 2002 exclusive livestock export monopoly deal between the Sudanese government and Saudi businessmen.

The theory runs that the government orchestrated the violence in Darfur, which had simmered with sudden bursts for 15 years but exploded in earnest in February 2003, so that its agents (*jinjawid* militias in the field and political-economic supporters in Khartoum) could benefit from the livestock riches of Darfur's African communities, which Khartoum perceives as hostile.

In the absence of specific documentation or testimony backing this theory, it is hard to lend it much credence. While the government and its tribal militia agents in Darfur are responsible for the overwhelming part of the abuses of the last 30 months, it was the Darfur rebels who initiated the violence out of frustration. Khartoum was clearly caught off guard and threatened by the rebel attacks – the brutality of the regime's reaction shows just how threatened it was.[338] This undermines the idea of a government plan to loot livestock.

Discounting the obvious conspiracy theory does not preclude the sale of livestock being a profitable by-product of the violence or a highly coordinated procedure. In fact, Human Rights Watch describes the looting of livestock in Darfur as "clearly organized and premeditated," and "[i]n many cases, it appears to have been "organized by the military commander and conducted in a methodical way."[339] Loot was offered as reward for fighting.[340] A former government soldier stationed in Kutum, North Darfur, explained the looting policy:

> "The animals are given to Janjaweed nomads who keep them. Then they are sold." After the government soldiers and Janjaweed militia

[337] Human Rights Watch: "Darfur Documents Confirm Government Policy of Militia Support," New York, 19 July 2004.

[338] Tanner (2005): pp. 17-19 and Prunier, *The Ambiguous Genocide*, Yale 2005: pp. 96 and ff.

[339] Human Rights Watch: *Sudan – Entrenching Impunity: Government Responsibility for International Crimes in Darfur*, Vol. 17, No. 17(A), December 2005: p. 19.

[340] Human Rights Watch (December 2005): p. 19.

> conducted fighting and looting operations, large army trucks would transport the looted livestock back to the Janjaweed camp…[341]

Another eyewitness reported, "Big lorries from Omdurman arrived… They loaded up with sheep from the base and took them away. Three times the lorries came… and transported camels and cows."[342]

A closer look involves estimating livestock losses (especially sheep) and trying to figure out what happens to the lost livestock.

Livestock losses

The first problem is the lack of overall numbers of animals looted: to the best of our knowledge, as of the time of writing (December 2005), there has been no publicly available, field-based estimate of livestock losses during the last two-and-a-half years of war. Several comprehensive studies of the impact of the violence on local communities, such as the Tufts study or a 2005 interagency assessment of livelihoods, while excellent, make no attempt to estimate actual livestock losses.[343]

Given the abundant evidence of looting of livestock, the absence of overall figures is striking. However, there is a wealth of human rights reporting on individual abuses that list numbers of looted livestock: 'in such and such a village, on this date, so and so was attached and so many head of livestock were stolen.' Perhaps more manageable are the many reports on given areas that try to be more specific on the magnitude of looted livestock.[344]

The closest overall estimates are assessments of percentages of 'lost' livestock. Citing FAO reports, an October 2004 WFP food security report states:

> For the IDP [internally displaced persons] population in Government of Sudan (GoS) controlled areas, losses are greater than 90 percent; in Sudan Liberation Movement (SLM)/Sudan Liberation Army (SLA) controlled areas in North Darfur, losses range between 60 and 90 percent. About 40% of residents reported loss of livestock as a result of the conflict, as compared to 90% of the IDPs.[345]

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[341] Human Rights Watch (December 2005): pp. 19-20.

[342] Quoted in Human Rights Watch (December 2005): p. 20. HRW notes that the Government of Sudan initially tried to use military helicopters to transport livestock, but after some sheep died from falling off the helicopters in mid-2004, the government switched to using trucks instead.

[343] Young et al. (2005) and EC/FAO/USAID (2005).

[344] See, for instance, Physicians for Human Rights, "Destroyed Livelihoods, A Case Study of Furawiya Village, Darfur – Preliminary Briefing," Cambridge MA, February 2005: p. 9; Young et al (2005): Annexes 2 (Kebkabiya) and 3 (Disa); or Interagency Assessment, "Dar Zagawa [sic], North Darfur," March 2005: pp. 22-30.

[345] World Food Programme, "Emergency Nutrition and Food Security Assessment in Darfur, Sudan," Rome, October 2004: p.46

The 2005 EU/FAO/USAID report, also quoting the 2004 FAO assessments of North Darfur, claims:

> [I]n the area between El Fasher and Kebkabiya (North Darfur), [sedentary] agro-pastoralists lost about 90 percent of their animals, mostly sheep and goats, in the past year (FAO/North Darfur). Similarly, agro-pastoralists in the area between Nyala and Kass (South Darfur) lost virtually all their livestock to looting; only donkeys were less heavily looted.[346]

These figures are vague, but they nonetheless give a starting point to develop some sense of overall livestock losses. The process will be necessarily imprecise.

It is useful to focus on sheep. Sheep are (with goats) the predominant livestock held by the sedentary African-Sudanese communities targeted by the *jinjawid*-GOS violence; the contribution of these communities to overall livestock production is often underestimated.[347] Also, unlike goats, sheep are both a domestic and an export commodity. The pre-violence population of sheep in greater Darfur has been estimated between 11 and 12 million, with just under four million head in each of the three states.[348] At the same time, the pre-violence population of greater Darfur is estimated to be around 5.5 million when adjusted for absent economic migrants from the region.[349] One could therefore estimate that, across Darfur, there is on average two sheep for every human being. This is a reasonable estimate, as pre-war food security data show that even poor households generally had between five and 10 sheep and better-off households may have had 25 to 100, or even more, sheep.[350]

Let us now turn to the number of human victims of the violence, people whom one could assume would have lost their livestock. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), there are just over 1.8 million internally displaced in Darfur.[351] The office of the High Commissioner for Refugees (UNHCR) says that about 200,000 registered refugees from Darfur are in eastern Chad.[352] As for death figures, estimates vary. The US State Department's estimates 63,000 to 146,000 "excess" deaths (above normal mortality rates) attributable to "violence, disease, and

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[346] EC/FAO/USAID (2005): p. 12.

[347] Young et al. (2005): p. 66.

[348] Young et al. (2005): p. 67 (quoting GOS Ministry of Animal Resources figures for 2001).

EC/FAO/USAID (2005): p. 1.

[350] Young et al. (2005): pp. 68, 155 and 167. Of course, these averages mask a wide variety of situations in different areas and communities (agro-pastoral, nomadic, sedentary) in Darfur.

[351] United Nations Office for the Coordination of Humanitarian Affairs: "Darfur Humanitarian Profile," Nr. 17, August 2005: Table A.

[352] United Nations High Commissioner for Refugees: "Sudan/Chad Situation Update," Nr. 38, November 2005: p. 12.

malnutrition."[353] The United Nations estimates 180,000 deaths in Darfur as a result of violence, disease or malnutrition from October 2003 until March 2005.[354] The Coalition for International Justice (CIJ) estimates deaths to be close to 400,000 between February 2003 to April 2005.

Adding up the numbers – 1.8 million internally displaced, 200,000 refugees and CIJ's estimate of 400,000 deaths – one comes to a total of 2.4 million people who are directly affected by the conflict: they have been either displaced or have died as a result of the violence. With the rough estimate of 2 sheep per person and a livestock-loss ratio of 90 percent for displaced populations, one can calculate the high estimate of the number of lost sheep at 4.32 million. That number is over a third of the pre-conflict sheep stock.

If one uses lower death estimates, the estimated number of lost sheep is in turn lower. The following table provides estimates for sheep stock losses based on the various death estimates. Thus, the range of sheep stock lost in Darfur for the last two and a half years spans from 3.71 million (low estimate) to 4.32 million (high estimate), for an average estimated loss of 4.01 million.

Death estimate	**Sheep stock lost in Darfur**
63,000 (U.S. Department of State)	3.71 million
146,000 (U.S. Department of State)	3.86 million
180,000 (United Nations)	3.92 million
400,000 (Coalition for International Justice)	4.32 million

These figures are likely to be conservative estimates for two reasons. First, many of the communities that were hardest hit by the violence were non-Arab groups who lived in areas where there is good land, grazing and water resources – mainly Dar Masalit, Wadi Azum, Wadi Saleh and Kabkabia-Wadi Baré areas, areas where livestock holdings were likely to be higher than average and were attractive to the *jinjawid*.[355] Second, the estimate does not include the 1.57 million people whom OCHA estimates are "conflict-affected," and whose livestock holdings are affected by looting and restricted mobility.[356]

Where are the sheep?

If four million sheep have been 'lost' in Darfur, one third of the pre-war stock, where have they gone? Is there any evidence that they were marketed? Several points need to be made.

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[353] United States Department of State: "Sudan: Death Toll in Darfur," 25 March 2005 (http://www.state.gov/s/inr/rls/fs/2005/45105.htm).

[354] "UN Estimates About 180,000 People Have Died in Darfur," *Associated Press*, March 16, 2005.

[355] Tanner (2005): pp. 26 and 28.

[356] Young et al. (2005): pp. 70 and ff.

First, while livestock losses are clearly a result of the violence, not all losses are the result of looting. In other words not all lost sheep are available to be marketed.

- Many animals were simply wantonly destroyed by GoS/*jinjawid* attacks, either in aerial bombardments or by the attackers on the ground when they felt they could not take the animals with them. In Furawiya for instance, a prosperous Zaghawa town 60 km from the Chad-North Darfur border, PHR heard that an air attack on the town's well yard in late 2003 killed hundreds of animals and that as much as forty percent of the town's livestock had been killed in such attacks.[357]
- Some animals end up scattering during the attacks, getting lost and dying in the bush if the communities they belonged to are displaced far from their villages of origin. Sheep are vulnerable because they cannot be herded long distances without access to water and food.
- A large number of animals are also lost to disease and wasting because insecurity means that owners can no longer lead them to pasture and water.[358] Again, sheep are especially vulnerable.
- One phenomenon that is not often talked about is the fact that many animals belonging to displaced populations are thought to be in the possession of nomadic groups (often Arab).[359] Prior to the violence, sedentary pastoralists often entrusted, on a temporary basis, livestock to nomadic groups for grazing during the dry season against payment in cash or kind. The livestock would be returned during the rains. These were often long-standing arrangements between communities. What is unclear is how many of these animals will be returned now that the violence has displaced the original owners jolted inter-communal, even if the herders were not involved in the violence.

Second, not all looted animals are marketed outside of Darfur. Many are herded locally and eaten by *jinjawid* and GoS forces in the field – this is especially true of sheep and goats.[360] Some are integrated into the herds of local nomadic communities. Some are slaughtered for dried meat (*sharmut*), which is easier to transport and harder to trace as no tribal brandings remain. Some are sold in local markets, but not many: the purchasing power of the sedentary communities has been greatly curtailed by the violence, and only in some larger centers do the numbers of displaced mean that aggregate demand for meat makes up for waning individual demand.

[357] Physicians for Human Rights (2005): pp. 7 and 9.

[358] Young et al. (2005): pp. 72-74 and Interagency Assessment (2005): pp. 23-24 (annexes on villages of Turba and Orori).

[359] Phone interview, Sudanese livestock development researcher with recent experience in Darfur, November 2005.

[360] Phone interview, Sudanese livestock development researcher with recent experience in Darfur, November 2005.

Third, there is evidence, however, that some of the looted animals are marketed beyond Darfur. Human rights and press accounts report the organized marketing of livestock. In May 2004, HRW stated:

> Much of today's cattle [not sheep] rustling is organized on an almost industrial scale. Dozens of displaced villagers told Human Rights Watch that stolen cows are gathered in *janjaweed* cattle camps or collection points – the largest of them in Um Shayala – from where they are driven to the government slaughterhouse in Nyala for export from Nyala, by air, to Arab countries like Libya, Syria and Jordan.[361]

Also in 2004, both the *The Washington Post* and *Voice of America* reported the presence of looted animals in Nyala market in South Darfur, one of the main jump-off points for Darfur livestock to the Nile Valley.[362] The Tufts study describes the development of so-called crisis routes that avoid SLA areas by passing south of Nyala and Ed-Daein (but this is mostly for cattle).[363]

What the markets say: clean sheep vs. conflict sheep

Markets, both inside Darfur and beyond its borders, give an indication of what happens to looted sheep. Inside Darfur, livestock trade has decreased since the violence started: for much of 2004, insecurity interrupted regular marketing channels within Darfur as well as between Darfur and the Nile valley.[364] Some livestock influxes seem to have taken place in early 2004, both in el Fasher and Nyala, reflecting distress sales on the part of displaced villagers.[365] The influx may also have been the result of looted sheep being brought to market. Overall, however, data from a number of villages in Darfur shows a slight increase in sheep and goat prices from 2003 to 2004, except in el Fasher where prices nearly doubled.[366]

The fact that prices were stable or even rising in Darfur as ordinary commercial marketing channels were blocked suggests that some numbers of looted sheep were probably being transported to the Nile Valley under more extraordinary channels – if not prices would have tumbled in Darfur as a result of high supply and low demand. In 2004, Darfur was buzzing with stories of looted livestock being smuggled out of the region on

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[361] Human Rights Watch: "Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan," New York May 2004: p. 31 (the field research for this HRW report took place in early 2004). Note: the Nyala abattoir was forced to close in June 2004 allegedly because it was unable to pay air charter bills, according to sources in Sudan.

[362] Wax, Emily: "Livestock Looting Another Tragedy for Darfur Families," *The Washington Post*, 18 October 2004; Thibodeaux, Raymond: "Market in Darfur Busy Selling Looted Livestock," *Voice of America News*, 14 November 2005.

[363] Young et al. (2005): pp. 75-76.

[364] Young et al. (2005): p.134.

[365] Young et al. (2005): p. 79. Wax (18 October 2004); Thibodeaux (14 November 2005).

[366] Young et al. (2005): pp. 78-80; EC/FAO/USAID (2005): p. 17.

lorries and aircraft organized by *jinjawid* and government security forces.[367] According to *The Washington Post*, citing local sources, it is *jinjawid* who are profiteering:

> International aid organizations and a Sudanese group are investigating the thefts and trying to trace the profits to determine whether they have reached high levels of government. But many victims and traders said the money has largely stayed in the hands of the Janjaweed. 'Janjaweed and Janjaweed leaders are getting rich off of this,' said … a professor at the University of Khartoum, who is tracking the profits from the sales.[368]

The behavior of markets beyond Darfur seems to confirm that some Darfur livestock has been making it to the large urban and export markets of the Nile valley. On the foreign side, Sudanese livestock and meat exports in 2004 were up a substantial 41 percent compared to 2003.[369]

At the same time, meat prices in Khartoum state, the largest market for meat in the country, rose by 43 percent for veal and 30 percent for mutton, after years of relative stability.[370] This might have reflected the dwindling supply from Darfur, but there were other explanations: the jump in exports for one, the fact that livestock prices rise in September (Ramadan, beginning of dry season) and rising oil prices that were creating inflationary pressure at the time. Had the Darfur meat supply been totally shut off, one would likely have seen steeper price hikes in Omdurman and Khartoum.[371]

In short, neither the domestic urban market, nor the export market, showed effects of a total withdrawal of one of the main supply components (before the violence, Darfur accounted for over a fifth of the sheep in Sudan[372]). In the course of 2004, some sheep must have been smuggled out of Darfur, even if regular marketing channels were closed.[373] Since the normal channels from Darfur to Omdurman were shut down, and 'clean' sheep were not being marketed, one could conclude that some if not most of the

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[367] See Human Rights Watch (December 2005): p. 20, n. 51.

[368] Wax (18 October 2004). CIJ is not aware of any international groups looking into the issue of looted livestock. Any such research will be of great interest, especially the results of any Sudanese investigative efforts.

[369] Economist Intelligence Unit: "Sudan Economic Structure," 22 March 2005 (for 2003 figures) and 6 September 2005 (for 2004 figures).

[370] "Sudan Completes Preparations for Livestock Export Season," Middle East Business Digest, 24 September 2004.

[371] Mitigating this, however, are reports that Sudan is increasingly becoming a destination for livestock (sheep and camels) smuggled in from Eritrea and Ethiopia and no doubt helped make up for some of the Darfur shortfall (Young et al. (2005): p. 52, and conversations with two Sudanese academics familiar with eastern Sudan, November and December 2005).

[372] Young et al. (2005): p. 53.

[373] Some people with experience of the region believe that Darfur sheep are being marketed in central Sudan as coming from Kordofan – Kordofan sheep give raise to fewer questions as to their provenance.

Darfur sheep marketed outside Darfur in 2004 were ‘conflict sheep’ – either looted animals or animals sold in distress sales by displaced villagers.

The conclusions that follow are inevitably incomplete, but they are a start in examining the money trail of livestock in Darfur.

- In the late 1980s and 1990s, the reason the Baggara of south Darfur and south Kordofan served as government militia in Bahr el-Ghazal was to raid Dinka cattle. In Darfur in 2003-2004, the overwhelming economic incentive for the camel-herding Arab nomads from northern Darfur to join the *jinjawid* was to secure access to land, water and grazing, and the promise of future livestock holdings, rather than to loot livestock that could be looted during the attacks.
- There is, however, no evidence that the Sudanese government made advance plans to target the livestock of African communities in Darfur. Once the violence was underway however, livestock looting may have been a lucrative by-product of the government’s counter-insurgency campaign.
- The analysis of available livestock-holding and market data is inconclusive in establishing that there is an organized large-scale marketing of looted animals. While the number of lost livestock is very high (perhaps close to four million heads of sheep), a sizeable portion of those animals was not marketed by the attackers.
- Both the analysis of the markets and anecdotal evidence from the region show that a number of individuals are profiting from sales of ‘conflict sheep:’ the individual *jinjawid* and their leaders, security and army personnel involved in attacks on civilian communities, and possibly corresponding traders and merchants in central Sudan.
- Traditional trading networks (merchants, traders, brokers, exporters) in and from Darfur appear to have been shut down for most of 2004. They are not likely to have gained much profit from livestock looted in Darfur.

4. Final Reflections on the Role of International Actors in the Future: Hurting by Helping?

Outsiders at Work

For those who live outside of Sudanese society, especially those who would like to see a change for the better in the lives of disenfranchised Sudanese, this research raises troubling questions. How do outsiders – private and public investors, international financial organizations, bilateral donors, aid agencies – reinforce, wittingly or not, processes of exploitation and alienation in Sudanese society? How will the increased international monetary involvement in Sudan that will follow the January 2005 Comprehensive Peace Agreement (CPA) peace affect these processes? Will this money, intended to bring prosperity and alleviate suffering, instead further entrench the political and economic elite and their abusive practices?

This report has documented oil industry practices and identified some of those individuals and entities who have profited from human rights abuses and government-condoned lawlessness in Sudan. It has laid out patterns of abuse in the agricultural sector, particularly in mechanized farming schemes and also in the livestock raiding and violent attacks against civilians taking place in Darfur. Just as international actors have played a significant role in both the Sudanese oil and agricultural fields, they also take the lead development programs and relief operations. As with the oil and agriculture sectors, some of the money that flows into Sudan in the form of international assistance inevitably ends up in the hands of the Government of Sudan and its allies.

The Aid Enterprise

Aid operations are of special interest, for a variety of reasons. First, assistance programs are one of the longest lasting and most consistent forms of international involvement in Sudanese affairs. International aid organizations have been on the ground in Sudan for decades, implementing long-term development as well as emergency relief programs. Second, humanitarian action, in the broad meaning of the word, tends to be subject to less scrutiny on the actual outcomes of its involvement than, say, an oil venture, because the stated objective of such aid efforts is noble – to help populations in need. Third, from the premise that assistance programs aim to do good, it should follow that the institutions that fund and implement them will be the most ready to change their behavior should it appear that their actions reinforce human rights violations.

A thorough investigation into how specific assistance programs may reinforce patterns of economic abuse in Sudan would, by itself, require a lengthy examination from the ground in Sudan – something for the future. There are some troubling indications, however, showing that programs meant to assist especially marginalized groups may have, unwittingly, because of insufficient analysis, fed into a larger process of marginalization.

Further Marginalizing Displaced Dinka in South Darfur

The first example comes from research on aid to Dinka populations from Bahr al-Ghazal displaced to southern Darfur by government-instigated violence.[374] Programs for displaced Southerners have been a mainstay of international aid programs in Sudan in the 1990s. Some of these programs are progressive, focusing on saving livelihoods (rather than only saving lives). This is what is known as developmental relief, a 'hand up' rather than a 'hand out.'[375] In the case of the Dinka displaced in South Darfur, efforts focused on integration into local production processes. In the name of sustainability and self-sufficiency, agencies provided what has been coined 'livelihoods' assistance: seeds and tools, fishing nets, donkey-carts. They encouraged the displaced Dinka to seek employment in local agricultural schemes. At the same time, to reduce 'dependency,' food aid to the displaced was reduced.

In their bid to engineer more thoughtful results, however, the aid agencies lost track of two crucial facts. First, the backdrop to these programs was one of extreme political violence. In dealing with their beneficiaries as 'displaced,' the programs failed to recognize that they were Dinka, the backbone of the rebel Sudan People's Liberation Army (SPLA) and, as far as the Khartoum regime was concerned, enemies. Second, the markets the displaced Dinka were expected to integrate were dominated by interests that were likely to abuse them. This was especially true of the commercial farmers:

> "[T]he Dinka are subject to dominant networks and power relations linking local merchants, commercial farmers, government officials and military officers… [C]ommercial farmers that provide […] employment are often linked in various ways to those political forces responsible for displacement. They are not neutral or disinterested providers of work."[376]

The Dinka were forced to work in highly abusive share-cropping arrangements, in conditions close to bonded-labor. Households often incurred crippling debts and had to split up merely to survive until harvest. The livelihoods-assets the displaced were given simply heightened the risk of attack and looting.

A decade of programs has yielded little, if any, improvement in the lives of the displaced Dinka.

> [R]eductions in food aid, rather than lessening dependency, have forced a greater reliance among the Dinka on highly exploitative and non-sustainable forms of agricultural labour. At the same time, those resources given or loaned to the displaced to lessen their economic disadvantage have usually ended up in the hands of more powerful surrounding groups.

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[374] Duffield, Mark: "Aid and Complicity: The Case of War-Displaced Southerners in the Northern Sudan," *Journal of Modern African Studies,* vol. 40 nr. 1, 2002: pp. 83-104. Duffield is an academic and former Oxfam country director in Sudan.

[375] Duffield, Mark (2002): p. 89.

[376] Duffield, Mark (2002): p. 95.

> Assets meant to strengthen economic parity have, quite simply, been taken off them.[377]

Economic Incentives for Delaying Relief

A second, troubling example is drawn from an aid agency evaluation of a response to drought, displacement and malnutrition in North Darfur in 2000-2001.[378] Much of the evaluation deals with trying to understand why, when famine early warning systems in North Darfur issued written reports as early as October 2000 (before the harvest) that a food gap was likely to occur, the relief response was so tardy. According to the report, the bulk of the World Food Program's general ration distribution started in July 2001, and the European Union's grain deliveries only really picked up in August 2001 – a full year after the first indications of a food gap. A large number of households throughout North Darfur left their home areas in search of food because relief that was ostensibly meant to help communities avoid displacement was late.

One of the main reasons the report identifies for the delayed relief was the Sudanese government's failure to declare an emergency, which in turn meant that donors may have been politically reluctant and, in some cases, legally unable to commit funds. The question then becomes why did Khartoum delay making a declaration that would trigger assistance to areas under its control? Several explanations are possible, including animosity toward Darfur, governmental concern for its image as self-sufficient, fear of scrutiny on the use of imminent oil revenues, and the desire to avoid international meddling in Darfur. One might also add bureaucratic incompetence. However, based on field research and interviews, the evaluation goes on to offer an alternative explanation: that the economic incentives may have motivated the delay. This puts a price on marginalization and governmental foot-dragging.

> The food response of the EU/Euronaid 2001 is also a case in point of how a relief operation benefits certain interests within Sudanese society. In 2001, Euronaid took advantage of a substantial carry-over from 2000 that the EU delegation in Khartoum was able to lay claim to. In April and May 2001, with grain prices on the rise after the post-harvest lows, Euronaid bought 14,000 MT of grain, mostly in the Gedaref region, for drought-affected areas, all of them geographically and politically peripheral: 9,000 MT for North, West and South Darfur (to be distributed by Save the Children), 4,000 MT for North Kordofan (CARE) and 1,000 MT for the Red Sea Hills (Oxfam) [Footnote: According to WFP, the EU tender drove grain prices so high that WFP chose not to purchase locally (Footnote: Interview, WFP Khartoum, May 2002)]. For the trucking, Euronaid retained the services of large trucking companies such as *an-Nauris*, the *Neferi Group* [the company referred to here is probably the

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[377] Duffield, Mark (2002): p. 100.

[378] Tanner, Victor: "SCUK's Response to Drought in North Darfur, 2000-2001," unpublished evaluation report, Save the Children (UK), Khartoum, 2002, CIJ files.

> Nefeidi group], and *Mohammed Ali Kir* transport, despite the fact that these companies were overbooked with orders from the oil sector, and would only use their own trucks as far as Omdurman and el-Obeid (where the westbound tarmac roads end), thus forcing them to subcontract beyond that. The reason for this, according to the Euronaid representative in Khartoum, is that Euronaid provides no advance payment, and therefore only the large companies can take on the burden (some payments were only cleared in November 2001) [Footnote: Interview, Euronaid representative, Khartoum 2002.]. When the rains rendered the roads from Nyala to West Darfur impassable, the EU agreed to fund the airlift of 1,500 MT from el-Obeid to Geneina through the air charter company *Aza*, who in turn used subcontractors.[379]

In other words, the delay served two (possibly overlapping) sets of entrepreneurs: grain traders (through the local purchase of relief grain in eastern Sudan) and transporters (both road and air). Indeed, as a result of the poor harvests of 2000, grain prices in mid 2001 were high in Sudan: sorghum retail prices between May and July were 100 to 150 percent higher that the break-even price.[380] It can be expected that wholesale prices were high as well.

The evaluation summarizes the process in five points, from the overall policies of marginalization to the money made on grain sales and transport contracts:

> (i) [T]he government fails to take adequate long-term measures (e.g., all-weather roads, price stabilisation mechanisms) to ensure improved food security in peripheral areas; (ii) when a food crisis looms, the government fails to recognise the problem, thereby stalling both its own resource mobilisation and that of international donors; (iii) when finally the government does recognise that there is a problem, donors turn to a key government constituent, Nile valley merchants, to buy surplus grain at a far higher price than would have been possible had the grain been purchased when the food gap was first identified at harvest time; (iv) owing to the growing emergency in the food insecure areas and to difficulties such as rains and competition from the oil sector, donors sign transport contracts at a premium with another key Government constituent, trucking companies; (v) when these trucking contractors fall behind delivery schedules, donors sign airlift contracts with air transport companies, many of which are thought to be controlled by the same interests that control the grain brokerage and the trucking…[381]

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[379] Ibid.: p. 34. EuronAid is a food aid arm of the European Union.

[380] Food and Agriculture Organisation: "Special Report FAO/WFP Crop and Food Supply Assessment Missions to Sudan," FAO, 17 January 2002.

[381] Tanner (2002): p. 28.

The evaluation does not offer any conclusive proof that the government's delay in declaring the emergency may have been motivated by commercial motives. Such proof would at any rate be near-impossible to come by. Readers could form the impression that the donors and aid agencies interviewed never considered that such a motivation may exist, or did not think how their decisions to purchase relief grain locally and resort to certain forms of transport might play into such calculations.

In fact, a recent study on local procurement commissioned by EuronAid extols the virtues of local purchase with neither caveats nor reservations: "there appears to be unrecognized potential for local and regional procurement *per se* to have a positive impact on rural development and small and medium-scale enterprises."[382] The study makes no mention of how large-scale procurement may affect local power relations and the lives of local farmers, or why such an analysis could be necessary. Concerning Sudan, it blandly states that "[l]arge scale mechanised grain farmers in the east of Sudan could readily service orders of this magnitude [1,000 MT]."[383]

The United States Agency for International Development (USAID) has also lauded the concept of local purchase, which it sees as a way to expand the flexibility of its current food aid program by allowing the agency to respond more quickly to food crises. USAID deputy press director Heather Layman states the agency's interest in developing local purchase operations instead of shipping food directly from the U.S.:

> The President's budget request contained a provision that would allow USAID, in dire emergencies, to purchase food locally to help save lives. It can take up to four months to get food to those who need it, and during that time people's lives are at risk. To help close that gap, the proposal was to shift $300 million in authority for purchases of U.S. commodities to a cash program that could be used to purchase commodities in other countries.[384]

Some international relief agencies do recognize that local purchase can have a detrimental effect on local populations and increase food insecurity. As the director of government relations of Catholic Relief Services notes:

> In an emergency situation where you have an area of a country that is already extremely food insecure, for international organizations to come in and try to procure the small supplies that are there, it can very dramatically drive up the price and cause further insecurity for the very people who don't have enough food to eat. If (local purchase) isn't done carefully and if it's done in too large of a manner it can contribute to the problem.[385]

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[382] Walker, David and Robin Boxall: "Contributions to Rural Development by Local and Regional Procurement of Food Aid," Natural Resources Institute / EuronAid, The Hague 2004: p. 4.

[383] Walker, David and Robin Boxall (2004): p. 16.

[384] Whalley, Kirsty: "He Said, She Said: Experts Take Sides on Food Aid," *Reuters*, 13 December 2005.

[385] Whalley (13 December 2005).

However, the positions taken on the use of local purchased food largely reflect only the urgency of aid deliveries. The cost-benefit analysis of locally purchased food revolves around timeliness and cost-effectiveness: local purchase is desirable because it is generally faster and cheaper. And, while some may point to the inflationary impact of huge international resources being thrown into a fragile local economy (such as above), the other question – who gains from the cash influx – is rarely asked. Little if any thought is given to how economic calculations linked to local purchase drive the relief policies of national authorities.

These two examples – the programs for displaced Dinka in South Darfur and local purchase in 2001 – are both striking and dispiriting, for several reasons. First, they show that, in the absence of any real analysis of the societies in which assistance programs are implemented, the aid enterprise's commitment, since the mid 1990s, to 'do no harm' is no more than lip service. Second, Sudan is a country of which the international community has substantial historical knowledge; what must it be in areas countries lacking such knowledge? Finally, both examples involve programs that are considered good, even cutting edge, practices – developmental relief and local purchase – and yet both appear, in the eyes of some observers at least, to compound economically-motivated human rights abuses. The problem is that not only do donors and aid agencies intervene in a context they do not understand well, but they have not shown much interest in understanding it any better. They make little effort to shape their intervention in terms of the local reality of who holds power and controls markets, of who gains and who loses.

When Peace Comes

The peace agreement signed between the Khartoum government and the SPLM is a historical opportunity for Sudan. But it also comes at a time when the overlap between commercial activity and human rights violations could very well increase. Economic actors in Sudan, like those we have mentioned, will seek to take advantage of the changes, especially as donor aid begins to flow into the country.[386] More international aid actors will seek to start operations in areas that were inaccessible during the civil war. The same holds true for internationals in the oil and agricultural sectors. Mechanized farming will continue to expand. Peace will trigger new extractive exploration for oil, gold and other resources. The peace process has already generated a real-estate boom in Khartoum, which could lead to expropriations and evictions, especially of displaced and poor communities who sought protection and some economic future in the capital and who are now forced to move again. The integration of Southern livestock into the Northern market could happen on terms that are unfavorable for rural producers in both the North and South. And it is easy to imagine an eventual peace in Darfur leading to displaced populations being prevented from reclaiming their rights to their land, especially in the more fertile areas of West and South Darfur.

[386] The Oslo Donors Conference on April 11-12, 2005 netted $4.5 billion in pledges for implementation of the Comprehensive Peace Agreement and humanitarian needs throughout Sudan. ("Sudan Asks International Donors to Deliver Money Pledge," The Ethiopian Herald, 1 September 2005).

In the coming years, the northern, Islamist part of the government is likely to become even more focused on making money, and potentially more aggressive in doing so with even more international money at stake. These monies will go to futhering the NIF/NCP's political future. And that is not all. Making money at the expense of rural populations who are not their core constituencies may be one of the few areas where Southerners and Northerners in government may find common ground and work together. With peace, Sudan will be increasingly open to outside monies: direct investment, private credit, concessionary loans and aid programs are all likely to increase. The outsiders who say they are committed to helping the marginalized people of Sudan build a better future must ensure they do not further contribute to the process of marginalization.

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ABOUT CIJ

The Coalition for International Justice (CIJ), www.cij.org, is an international, non-profit organization that supports the international war crimes tribunals for Rwanda and the former Yugoslavia, and justice initiatives in East Timor, Sierra Leone, and Cambodia. CIJ provides practical assistance to the tribunals and other related justice efforts on legal, technical, and outreach matters. CIJ initiates and conducts advocacy and public education campaigns, targeting decision-makers in governments, international and regional organizations, media, and among the public. Working with other non-governmental organizations around the world, CIJ helps focus and maximize the impact of individual and collective advocacy with regard to international and hybrid tribunals. From 2000-2003, CIJ conducted a substantial rule of law project in East Timor. Most recently, CIJ assembled an international team of professionals who conducted over 1,200 interviews with Darfurian refugees who had fled to Chad from Sudan. CIJ has offices in Washington D.C. and The Hague, The Netherlands.