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SUDAN

Recommendations to donors funding Sudan

Introduction

On 11-12 April 2005, donors funding Sudan are meeting in Oslo at a conference hosted by Norway, one of the international mediators of the Comprehensive Peace Agreement, signed on 9 January 2005 to end two decades of conflict between the government of Sudan (GoS) and the Sudan People's Liberation Movement (SPLM). Sudan remains a profoundly unsafe place for the Sudanese people, whose human rights continue to be violated on a daily basis. If donors want to ensure "peace dividends" to the population of Sudan, they must invest in protecting the human rights of all Sudanese. They must monitor funds to Sudan, according to clear benchmarks, evaluation and control, to ensure that it is the Sudanese people who benefit and not those who have violated their human rights.

The Synthesis of the Joint Assessment Mission *Framework for Sustained Peace, Development and Poverty Eradication* (hereafter the JAM Framework), carried out by the World Bank and the United Nations with the GoS and the SPLM, launched on 10 April 2005, provides an overview of development priorities until the end of 2007.

Programmes funded by donors should bring real change to the lives of the Sudanese people. With this objective Amnesty International is offering donors the following key recommendations in relation to a number of human rights concerns in the JAM Framework. They are not exhaustive. The organization is also mentioning some areas left out of the Framework which donors should consider funding.

The JAM Framework

Amnesty International welcomes the JAM Framework which stresses integrating human rights protection and gender issues at all levels in both north and south Sudan. Amnesty International believes that the emphasis on good governance, empowerment of the people, reforms to the justice and legal system, the rule of law, freedom of expression and the

role of a free media will, if acted upon, be positive for human rights. The JAM Framework recognizes that monitoring and evaluation of programmes will be critical and emphasises that this should be done not only by monitoring and evaluation bodies and by the gathering of good statistics and data, but also through guaranteeing freedom of expression and by lifting the existing regulations on the media in Sudan.

Human rights and equality of all, regardless of sex, ethnicity or religion before the law are fundamental for the donors to consider since many of Sudan's problems are a result of disrespect for human rights. Marginalization, which most regions complain of, has led to discrimination in civil and political rights as well as in economic, social and cultural rights. The tragedy of Darfur, which worsened during 2003 while international powers concentrated on the North-South peace process, shows the dangers of sacrificing concerns for human rights for the sake of pursuing a peace process. Trade-offs of human rights for peace or for economic development do not work and are extremely costly in money as well as in human lives and livelihoods.

For the National Government (to be formed with the current Sudanese Government, members of the Sudan People's Liberation Movement – SPLM - and to include the Northern States and the "Three Areas" – Southern Blue Nile, the Nuba Mountains and Abyei, which will have special regional status), the total amount requested from donors is \$1.2 billion. For the Government of Southern Sudan the total estimated needed from donors is \$1.4 billion. The rest of the nearly \$7.9 billion needed to fund the priorities identified by the JAM - \$3.1 billion for the National Government and \$2.1 billion for the government of south Sudan – should, according to the JAM Framework, be covered by domestic financing.

The JAM Framework stresses the need for transparency and accountability. The second objective of the 10-point Poverty Eradication Strategy, agreed to by the two parties (the GoS and the SPLM) commits them to:

“Building a decentralized, multi-layered governance structure spanning the National Government (NG), Government of Southern Sudan (GOSS), state and appropriate local levels, that is characterized by transparency, accountability and equitable resource allocations;”

another objective stresses:

“Empowering local communities, vulnerable groups, youth, women's and civil society organisations”.

Human rights in the JAM Framework

The JAM Framework is posited on turning a government and a national liberation movement, which have so far acted as though they were not accountable for their actions and shown little or no concern for protection of human rights, gender mainstreaming, freedom of expression, transparency and justice, into governments which respect human rights, establish the rule of law and listen to the voices of civil society. There have been serious delays even in implementing even the first 90 days objectives of the Comprehensive Peace Agreement signed on 9 April 2005; the problem of accountability over the next years will be fundamental.

The government of Sudan has up to now failed to fulfil its human rights obligations under international humanitarian and human rights treaties to which it is a State Party: the Geneva Conventions of 1949, ratified by Sudan in 1957; the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both ratified in 1986, and the Convention on the Rights of the Child (CRC), ratified in 1990. The war crimes and the crimes against humanity which the government of Sudan and government-supported militias have carried out in Darfur since 2003 are a repetition of the crimes carried out against the people in Upper Nile, in Equatoria, Bahr al-Ghazal, the Nuba Mountains and other areas of the southern Sudan over more than 20 years of conflict. The government remains in denial of the human rights violations committed by government officials and allied militias. As long as civilians continue to be unlawfully killed in Sudan, peace will be meaningless for the Sudanese.

In some areas of northern Sudan, an active civil society and non-governmental organizations (NGOs), together with the press, have often pushed to the limits the boundaries of actions allowed to them, often at personal cost. In the SPLM areas, after so many years of conflict and destruction of civilian communities and infrastructure, civil society operates at great difficulty within a context of violence, proliferation of small arms, and almost complete lack of media and resources. Sudanese civil society has been completely excluded from the peace process that has led to the signature of the Comprehensive Peace Agreement. In the Sudan Civil Society Forum on 7-9 April 2005, prior to the Donors' conference on Sudan, Sudanese organisations also complained that the JAM failed to adequately include them in discussions on the future of Sudan.

As regards international organisations, the government of Sudan, often through its Humanitarian Assistance Commission (HAC) has tried to control international humanitarian organizations in the north; the SPLM, through its relief arm, the Sudan Relief and Rehabilitation Association (SRRA), has successfully ensured that only the humanitarian aid organizations it accepts are allowed into the south.

Sudan's budgetary process has been opaque in the past, and some of the planned expenditure programmes of the state in the past have perpetuated discrimination in favour of

some regions over others, leading to uneven distribution and discriminatory allocation of funds, due to the lack of accountability.

Amnesty International, therefore, is concerned at the suggestion made by the Norwegian Minister of Development, at the opening of the Sudan Civil Society Forum on 7 April 2005, that there should be a contractual relationship between line ministers of the government of South Sudan (GoSS) and NGOs for service delivery. The Minister argued that all donor money should be put into a trust fund to be administered and monitored by the World Bank, so avoiding a lack of coordination and strengthening the capacity of southern Sudan for the future. There is a danger that allowing the GoSS to contract all NGOs will lead to the exclusion of civil society organizations not seen as sympathetic to the GoSS. As the Minister herself said, civil society should be a watchdog and donors should ensure that funding will be given for NGO projects. Supporting the independence, capacity and a conducive environment for civil society will be the best investment in sustainable peace.

Unless effective measures are put in place to ensure that the aid reaches the desired targets and meets the objectives set out in the joint assessment, there is a grave danger that the resources committed by donors at the conference in Oslo may remain underutilised, misutilised, or even used to commit further violations of human rights, instead of benefiting the people of Sudan who have waited long, and patiently, for peace and development.

Recommendations to donors funding Sudan

1. Fulfil the Human Rights Obligations under the Comprehensive Peace Agreement.

The Sudan government has so far failed to fulfil its human rights obligations, and donors should insist that some actions be taken before the end of the Donors' Conference.

The Power-Sharing agreement, agreed in May 2004 and signed in June 2004, lays down in some detail the human rights standards embodied in international standards that the GoS has ratified and the SPLM has promised to adhere to. A number of human rights, included in the ICCPR and the ICESCR, are specifically listed in the Power-Sharing Agreement and include: the right to life; the right not to be arbitrarily arrested; the right not to be enslaved; the right not to be tortured; the right to a fair trial, the right to education, the right to privacy; the right to freedom of thought, conscience or religion; the right to freedom of expression; the right to freedom of association and assembly; the right to family and marriage; the right to vote; the right to equality before the law; the right to freedom from discrimination; the right to freedom of movement; the rights of children; the equal rights of

men and women.

Many of these rights are consistently limited and violated in Sudan today. Over the past week there have been new arrests of members of the Umma Party organizing commemorations for the 10th anniversary of the street protests which led to the overthrow of the government of President Nimeiri in 1985. Meanwhile, a member of the South Darfur Parliament, Ali Hussein Dossa, arrested and tortured in 2004, was stopped from travelling to participate at the UN Commission on Human Rights in Geneva in April 2004.

There are immediate steps that the Sudanese authorities can take, which do not require funding, but political will, and which can improve quickly and markedly the lives of Sudanese.

a) As regards **the right not to be arbitrarily arrested**, there are many political detainees who have been arrested and who have remained for months in detention without charge or trial, sometimes without being given any reasons for their arrest and without any access to the outside world.. For instance, **Ma'mun Issa Abdel Gadir**, a Darfur community leader, from Niyertiti has been imprisoned since February 2004 without charge or trial and visited only twice by his family. An Appendix to this paper contains a list of those held now without charge or trial by the Sudanese government. A worrying new development since September has been the re-emergence of "ghost houses" – secret flats or apartments where detainees are held incommunicado and often tortured.

Recommendation:

- **The Sudanese authorities should demonstrate their commitment to respect the human rights promises it has made many times, by giving all political detainees immediate and regular access to their lawyers and families. Those detained simply for exercising their right to freedom of expression without using or advocating violence should be immediately and unconditionally released; others should be released unless they are promptly brought to fair trial according to international standards on recognizable criminal charges.**

b) As regards **the right to life and the right not to be tortured**, the government's role in sending soldiers and supporting militias to kill in Darfur, Bahr al-Ghazal or Upper Nile is flagrant. Commissions of Inquiry set up by the government of Sudan have failed to carry out serious investigations or to report publicly. The conclusions of the Commissions of Inquiry set up into the killing of more than 20 people, mostly from the Beja, during and after **demonstrations in Port Sudan** on 29 January 2005 have never been made public. In addition, Amnesty International still frequently receives reports of detainees tortured in custody. In Darfur torture is widespread and often systematic. In September 2004, at the time of the arrest of dozens of suspected members of the Popular Congress two students, **Shamsaddin Idris**, a Nuba student, and **Abdel Rahman Suleiman Adam**, from Darfur, died in custody, apparently after being beaten by members of the National Security Forces. The government promised an inquiry into their deaths, but no results of this inquiry have ever

been made public.

Recommendations:

- **To demonstrate its commitment to respect the right to life and the right not to be tortured, the government of Sudan should release the findings of these Commissions of Inquiry before the end of the Donors' Conference.**
- **Donors should call on the government to bring suspected perpetrators of the killings in Port Sudan and in September 2004 to justice.**

c) As regards **the right to a fair trial**, the Specialised Criminal Courts in Darfur are still sentencing people in trials which allow statements made under torture to be used as evidence and limits the defendant's right to appeal. In all courts, defendants receive sentences, including death sentences, often without having a lawyer to defend them. For instance **Najmeddin Abdallah** was sentenced to death without a lawyer to defend him in a case heard before the General Criminal Court in Damazin in 2003. Najmeddin was 15 at the time of the alleged offence. The Convention on the Rights of the Child, to which Sudan is a state party, states : *"Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age"*.

Hundreds of people sentenced to flogging by Public Order Courts do not have the benefit of a lawyer or of any serious right to defence before sentences of flogging, carried out immediately, are imposed.

Recommendations:

- **To demonstrate their commitment to fair trials, the GoS and the SPLM should make an immediate public announcement that all those accused of a criminal offence is entitled to free legal assistance.**
- **Donors should help to fund and train a network of independent Sudanese lawyers who can provide free legal aid to all detainees.**
 - **Donors should insist to the Sudanese delegation before the end of the Donors' Conference that all the commitments listed above are acted on.**

2. Ensure adequate funding of the International Criminal Court (ICC)

The impunity allowed to those who have committed grave crimes under international law against civilians in Southern Sudan has given perpetrators the message that such crimes can be committed again with impunity, in Darfur. Amnesty International has argued that all war crimes and crimes against humanity committed in Sudan, be they in Southern Sudan, Darfur

or Northern Sudan, should be referred to the Prosecutor of the International Criminal Court. United Nations Security Council Resolution 1593 has referred the situation in Darfur, but not the entire Sudan, to the Prosecutor of the International Criminal Court. This decision should be seen as a first step to end the culture of impunity in Sudan and as a strong message that war crimes and crimes against humanity committed in Sudan will not remain unpunished.

UN Security Council Resolution 1593 has not provided any UN funding for the Court; rather, the resolution expressly states that funding should not come from the budget of the United Nations. However, it encourages all states to contribute to the Trust Fund for victims.

Recommendations:

- **The donor states should follow the example of Canada's recent donation of \$200,000 to the ICC and ensure sufficient funds to the ICC and its Trust Fund. These donations should not contain any restrictions.**
- **The donor states should ensure that the National Government and the Government of South Sudan fulfil their obligation under Security Council resolution 1593 to fully cooperate with the ICC.**
- **Donor states, should, like all states, enter into cooperation agreements with the International Criminal Court, agreeing to arrest and surrender any person in their territories or subject to their jurisdiction who is the subject of an arrest warrant or provisional arrest warrant issued by the Court, and to provide full cooperation to the Court in its preliminary examinations and investigations and prosecutions.**

3. Peace and reconciliation mechanisms should ensure there is no impunity and that there is redress for victims of past crimes.

The need to institute mechanisms for peace and reconciliation is stressed several times in the JAM Framework; the need to oppose impunity and ensure reparations for past crimes under international law is not mentioned at all. However, ensuring that justice is done is a necessary element to ensure that crimes are not repeated, to bring reconciliation and to help to obtain closure for the victims. The Sudanese people, in particular in the South, are traumatised by the gross human rights violations they and their communities have suffered.

Donors should not overlook calls for justice and reconciliation mechanisms to address the crimes committed in the context of the North-South conflict: these mechanisms will not only help millions of victims and in fact the Sudanese as a whole to overcome their trauma; they are also a necessity if revenge and a return to war are to be avoided.

Recommendations:

- **The donors should, in addition to funding the ICC, also pledge to fund the national and long-term comprehensive plan to end impunity mentioned in UN Security**

Council Resolution 1590. They should insist, in accordance with the UN Secretary-General's report on the rule of law, that this plan be developed in close consultation with Sudanese civil society.

- **The International Compensation Commission, proposed in January by the UN Commission of Inquiry into Darfur has still not been established; there should also be a Compensation Commission for victims of gross human rights violations in the North-South conflict.**

- **The donors should fund a trust fund which should provide full reparations including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition to victims and their families. The Compensation Commissions in the South, the Three Areas and Darfur should have special chambers to compensate victims of rape and to ensure that the children born as a result of rape are integrated in society. In consultation with Sudanese civil society, the donors should fund rehabilitation programs for victims of rape and other forms of sexual violence.**

4. The revision of the law, the rule of law and the judiciary

The State of Emergency remains in place. Emergency laws allow the Sudanese authorities to detain people indefinitely, without charge or trial, to break up peaceful demonstrations and to violate human rights under the pretext of counter-insurgency.

The rule of law will be a fundamental safeguard for the Sudanese people only when the laws are in accordance with international human rights treaties. For this reason, the revision of the laws building upon the recommendations of the JAM Framework should be carried out now, and not in a year's time.

Good laws are useless unless they are enforced. Thus the revision of the laws is closely linked with those who will enforce it – the judiciary, the prosecutor's office and the police. Only if the laws are enforced and respected can there be a rule of law.

The judiciary in a state should be the last bastion for the protection of the rights of the individual. The Supreme Court in Khartoum has, in fact, sometimes overturned decisions in lower courts where defendants have been sentenced without lawyers and on the basis of confessions extracted under duress. Sometimes prosecutors have ended proceedings where security forces have tortured detainees to obtain spurious confessions. But many more prosecutors have accepted the human rights violations carried out by the national security forces and many judges have imposed cruel, inhuman and degrading punishments in unfair trials without the accused benefiting from lawyers or from appeal.

In SPLM areas, the justice system and the rule of law need to be fundamentally strengthened. At present judges have no power to enforce decisions against SPLM

commanders and their decisions are reportedly frequently overturned. The Southern Sudanese urgently need a network of independent lawyers who can provide legal aid to all those arrested or charged.

An independent and impartial judiciary is the cornerstone of the right to a fair trial in international law. It ensures that the interests of justice and the requirements of fairness and rule of law are served in a broad sense, including by preventing abuse of power by executive authorities at all levels and other political influences over law enforcement and justice.

Recommendations:

- **As a first step to show its seriousness about the rule of law, the President of Sudan should immediately abolish the Emergency Laws before the end of the donors' conference.**
- **As part of the revision of the laws envisaged in the JAM Framework, National Security Forces Act Article 31 (allowing prolonged detention without charge) and Article 33 (allowing national security forces members immunity from prosecution) and Article 10(i) of the 1993 Law of Evidence (allowing evidence obtained by torture to be accepted) should be abolished without delay;**
- **Reforms of the law should be drafted in close consultation with Sudanese civil society, including groups working on behalf of the rights of women.**
- **The judiciary and prosecutors from north and south should receive training in human rights standards especially regarding detention and trial.**

5. Restructuring the police, retraining the army, and monitoring detention centres

The Sudanese government has used a secretive and unaccountable security apparatus to violate human rights with impunity. The Sudanese national security forces have consistently acted as a tool of oppression rather than a force which protects the people. The fact that up to now, three months since the Comprehensive Peace Agreement, the security forces continue to carry out arbitrary detentions, to hold those suspected of political opposition in prolonged incommunicado detentions without charge or trial, and that lawyers and human rights activists continue to receive many reports of torture, does not give hope for change.

The JAM Framework stresses retraining for the police which:

“needs to include inter alia exposure to good international practice; awareness-raising on human rights and statutory laws; crime prevention; investigation and interrogation techniques; and relationships with other security sectors. Monitoring

and accountability mechanisms are needed in the correctional system to stem abuses, and to enhance access to justice for vulnerable groups, including displaced women and juveniles. “

UN Security Council Resolution 1590 also says that UNMIS (the UN peace support operation to be deployed under the peace agreement) should assist in “*restructuring the police service in Sudan, consistent with democratic policing, to develop a police training and evaluation programme, and to otherwise assist in the training of civilian police.*”(para 4(a)(vii))

Recommendations

- **Donors should fund a complete restructuring of the National Security system and the army throughout Sudan. There should be mechanisms to encourage members of minority groups and women to join law enforcement agencies and to ensure their integration. Those responsible for human rights violations should not be absorbed into the restructured force. All security forces should be completely retrained. The retraining, in addition to the areas raised in the JAM Framework above, should include international law and standards such as the UN Standards for Law Enforcement Officers and for the Use of Force and Firearms. The effectiveness of the training should be regularly monitored. The newly restructured security forces should cooperate closely with communities and their operations should be transparent and accountable.**
- **Donors should help fund a clear and independent inspection system to monitor prison and detention centres, to ensure that international law and standards such as the Standard Minimum Rules for the Treatment of Prisoners are enforced, both as regards the living conditions in detention and to ensure that every detainee has regular and confidential access to families and lawyers.**

6. Human Rights Commission

The Human Rights Commission mentioned in the Power-Sharing Agreement must be set up and properly funded. It must be able to operate with complete independence and be accessible to all. Members should be of the highest independence and integrity and not be selected solely by the government and should be broadly representative of society, including representatives of vulnerable groups. It should consult with civil society concerning the kind of assistance they need for promotion and protection of human rights, especially in relation to marginalised and vulnerable groups. Offices should be accessible and not close to police stations or other places where those who complain might feel intimidated. Reports of the Human Rights Commission should not report abstractly but examine the details and root causes of cases they have investigated. Witnesses and evidence should be protected. The results of its investigations must be open to scrutiny by civil society. In addition annual reports should be published which should not have to wait for scrutiny from any outside body

before being made public. The Human Rights Commission should make recommendations to the government, the judiciary and other organs with the expectation that they will be implemented.¹

Recommendation

- **Donors should fund the Human Rights Commission, which should cooperate closely with commissions on equality, regardless of sex or ethnic group, as described below. They should use clear benchmarks to ensure that the Human Rights Commission operates independently and impartially and that its recommendations are implemented in Sudan.**

7. Consult and empower women; integrate gender issues

Amnesty International welcomes the “mainstreaming” of women’s issues throughout the JAM Framework. As the report says, defining gender as a “cross-cutting issue”:

“women shoulder enormous work burdens, and suffer from discrimination in economic and public spheres of life. Measures are included to promote the position of women including in education, governance and access to income earning opportunities – not only to meet the letter of the goals for poverty eradication and human development, but also to realize the spirit of the CPA, which is of a just society with access to opportunity for all.”

There are twice as many women as men in southern Sudan and mostly they are the most disadvantaged: “Women in south Sudan are many times more likely to die in childbirth than to finish eight years of school”.²

The lesson that “women’s disempowerment is a major issue” should not only be accepted but also acted upon by the GoS and the SPLM, neither of which appear to have included a woman in their teams which worked on the JAM Framework, despite calls by Southern Sudanese women to have 25% seats in SPLM institutions.

Recommendation:

- **Donors should fund a gender equality commission to monitor complaints of discrimination made by women and devise preventive and remedial measures against all forms of gender discrimination. It should report at least once a year. Donors should**

¹ See *National Human Rights Institutions: Amnesty International’s recommendations for effective protection and promotion of human rights* (AI Index IOR 40/007/2001). See also the *Principles relating to the status of national institutions* (adopted in the UN Commission on Human Rights Resolution 1992/54, known as “the Paris Principles”).

² JAM Framework, pages 44, 22.

ensure that the commission's recommendations are implemented by the Sudanese authorities.

8. Work to end discrimination

Sudan is divided by deeply endemic ethnic and tribal discrimination. The government and armed opposition groups have sought to use ethnicity to play communities against each other, and have often recruited their forces on ethnic lines. Many civilians have been killed, or arrested on the basis of their "ethnicity". Discrimination must be addressed to avoid further conflicts in Sudan.

As a state party to the International Convention on the Elimination of All Forms of Racial Discrimination Sudan should prohibit, by all appropriate means, including legislation, discrimination based on race, ethnicity, religion or origin.

Sudanese civil society can play an important role in promoting the elimination of discrimination. At the Civil Society Forum, civil society organisations from the North elected, as their representative to address the Donors' Conference, a woman of Southern origin, thus breaking traditional stereotypes pitting North versus South.

Recommendations:

- **Donors should fund a Commission against Discrimination which should promote the principle of equality of all before the law, regardless of race, ethnicity, religion and origin, by information and campaigns and enable individuals to bring complaints about discrimination.**
- **Donors should encourage Sudanese civil society participation in training on anti-discrimination programs around the world and international human rights standards and legislation prohibiting discrimination.**

9. Support human rights defenders

A vibrant and active civil society is one of the traditional strengths of Sudan. Human rights defenders throughout the Sudan act individually or with others to protect human rights or fundamental freedoms. Many are under threat, suffering harassment or even arrest, by the Sudanese authorities. The culture of violence and impunity and the availability of weapons in the South put civil society organisations under daily threat. Sudanese human rights defenders and human rights organizations will play a vital role in the future, building a human rights culture in the country. They have monitored human rights violations in Sudan before the arrival of UN human rights monitors (UN human rights monitors are present in Darfur and

should be deployed as part of UNMIS in the rest of Sudan) and will do so after the UN has left; they must be supported and protected.

Recommendations:

- **A reliable communications network can act as a form of protection for human rights defenders as well as providing a means to disseminate human rights information. The donors should, in consultation with Sudanese human rights defenders, provide funding for suitable communications systems, including independent radio and cheap or free internet access.**
- **Donors should make clear to the Sudanese authorities that they expect human rights organisations to work in a conducive environment, and that intimidation, harassment, detentions and threats against human rights activists will not be tolerated.**

10. Ensure transparency in resource allocation

The extraction of resources, in particular oil, in insecure environments has contributed to conflict and human rights abuses in many parts of the world. Oil has been a central cause of conflict between North and South Sudan. Tens of thousands of civilians living in the oil-rich areas of Upper Nile in southern Sudan have been unlawfully killed, tortured and forcibly displaced. Care must be taken to ensure that contracts to oil companies, whether issued by Sudanese authorities or reconstruction supported by the donor community, are awarded in a transparent manner so that the resources raised for the Sudan are used to benefit the Sudanese people.

The conflict in Sudan has meant that the south has been largely closed to outside economic interests for years. This may now change, and foreign economic actors may play a powerful role in southern Sudan – there is a pressing need to ensure that they are a force that do not further exacerbate human rights abuses.

Recent research at the World Bank and elsewhere demonstrates that there is a strong link between natural resources and conflict. The World Bank study found that countries with economies heavily dependent on primary commodity exports are at a greater risk of war than countries that are not. This is especially the case when countries lack transparent, legitimate, and capable institutions to regulate the large amounts of revenue flows generated in a short time. Under such conditions state officials, politicians, and military personnel have unusually high incentives and opportunities to control revenues for personal profit or to translate them into political and military gain, and low incentives to channel revenues towards sustainable and equitable development. This kind of corruption directly undermines the rule of law. The process of reconstruction in southern Sudan should have as a central purpose to respect, protect and fulfil the human rights of the Sudanese people.

Recommendations

- Donors should fund compensation and reparations for civilians who have suffered serious crimes under international law in the name of oil.
- The Sudanese people have the right to full participation in the reconstruction process – they must be consulted in a meaningful manner about their legitimate needs. Contracts that are awarded through non-transparent bidding procedures, and so do not conform to internationally agreed best practice, will inevitably lead to disputes, which will be further exacerbated by political tensions if these contracts go to supporters of particular groups or factions.
- Donors should consult Sudanese civil society in designing an effective anti-corruption mechanism and ensure that the anti-corruption Commission to be set up under the CPA is able to enforce its recommendations.

11. Involve local communities

The fact that the North-South peace process was so exclusive makes it all the more important to ensure that the years of implementation of the Comprehensive Peace Agreement and the Joint Assessment Mission framework should be inclusive of civil society and all political parties.

Recommendation

- As recommended by the UN Secretary-General in his report on the rule of law, donors should ensure that local communities are fully involved in the design and implementation of projects and especially that members of marginalised communities and women are brought into discussions of all projects. Failure to do this has, in the past and present, resulted in decisions without informed prior consultation or consent of all stakeholders; these have contributed to the growth of groups claiming that they are taking up arms against the government, feeling that they have suffered from government economic projects (for instance in relation to the Jonglei Canal or the Meroe Dam).

12. Freedom of Expression

The commitment to freedom of expression is rightly seen by the JAM Framework as fundamental for the future of Sudan, related to the media, an active civil society, and to accountability. The censorship of the media, including the seizure or closure of newspapers as practised in Sudan, hampers the financial viability of the media. It encourages self-censorship; for instance, newspapers at present are not allowed to describe critically the situation in Darfur or to write positively about the UN resolution on the referral of Darfur to

the International Criminal Court. As Amnesty International has frequently stressed, freedom of expression and information are not just human rights in themselves, they also act in defence of other rights and allow the people to participate in decision-making.

The commitment to inclusiveness and political democratization in the first half of the Interim Period will entail easing the regulatory framework for political party activity and guaranteeing freedom of expression and association. The same applies to the media and other civil society organisations, such as universities and student groups, indigenous NGOs and women's groups. There is a critical role for a vibrant civil society in Sudan, not only in service delivery but also in maintaining momentum for the political, social and economic transformation of the country. Civil society should act as an independent watchdog, and as an advocate for basic freedoms, human rights and inclusion of disadvantaged groups. Traditional administrations also have a role to play, particularly in promoting peace and reconciliation initiatives at the grassroots, as well as in terms of local-level accountability.

Recommendations:

- **As a first step to allow freedom of expression, the Sudanese government must end without delay emergency and press laws that contravene the right to freedom of information and expression.**
- **Donors should fund projects to support and expand independent media in all parts of Sudan, but particularly in Southern Sudan.**

13. Resources must be given for refugees and internally displaced persons (IDPs) to return in security and safety to their homes

There are some 600,000 southern Sudanese refugees from the conflict with the north living in refugee camps in Congo, Uganda, Kenya, Ethiopia, Eritrea, Egypt and the Central African Republic. In addition there are some 2,500,000 refugees living miserable existences as internally displaced persons in camps mostly around Khartoum and Kordofan, many of them without the basic allowances of food and their children without the possibility to receive an education.

The Khartoum authorities have frequently demolished homes in settlements for displaced in Khartoum describing it as part of "urban renewal". This has still been continuing over the past weeks. Since December 2004 the homes of at least 11,000 displaced people in Shikan, a settlement north of Khartoum, have been demolished; displaced people often have to leave without warning and with no time to carry their belongings; they are often sent to areas which are not yet fit for human habitation.

In Darfur the 1.65 million IDPs and the 200,000 refugees in eastern Chad do not dare to return home, fearing continuing attacks, human rights violations and looting by the militias. Those in Darfur have temporarily lost their homes; those in many parts of the South, for instance in Upper Nile Province, were also forcibly displaced as part of a policy to clear the oil areas of its population. Some, such as many of the Nuba who lived in the plain, have seen their lands settled by others, mostly farmers from the riverain groups. The JAM Framework envisages the setting up of a properly funded Land Commission.

Although UN and aid agencies have been working for some years on the need to ensure a safe and secure return for refugees and IDPs, including the need to ensure services such as water, health, education, little or no changes have filtered down to the areas of the south where the refugees and displaced are returning to.

Recommendations:

- **The UN peacekeeping presence in the country must now urgently establish a secure environment in which refugees and internally displaced persons can return home in safety and with dignity.**
- **UNMIS should undertake recovery, return and reintegration tasks in a coordinated manner, in which the Office of the United Nations High Commissioner for Refugees should continue to play, in cooperation with other agencies, funds and programs, a central role in facilitating the voluntary return and monitoring the safety of those refugees and internally displaced persons who spontaneously choose to return.**
- **A staged approach that includes and upholds international human rights and refugee law standards is critical to ensuring the protection and the safe and dignified return of Sudanese refugees and displaced to their areas of origin. Failure to respect international standards scrupulously will lead inevitably to renewed cycles of displacement.**
- **Donor governments should put pressure on the Sudanese governments to ensure that vulnerable IDPs are not left homeless by the demolition of their homes. Such destruction should never happen unless other camps with adequate facilities have already been erected to help the displaced, in consultation with them.**

14. Restructure the mechanisms for giving humanitarian aid and for registering non-governmental organizations

Registration and monitoring of internal and external organizations is necessary but the system of registration and facilitation of the work of Sudanese and international organizations has been consistently used as a means to control and censor any activities which might imply criticism of actions of the government of Sudan or the SPLM.

The Humanitarian Aid Commission (HAC) in areas under the government of Sudan is

responsible for giving aid and also for facilitating and managing humanitarian aid from outside. All too often HAC personnel act more as an additional branch of the security forces mandated to monitor aid workers rather than as an organization designed to facilitate their work. In their oversight of all deliveries of humanitarian aid their activities often hinder humanitarian aid from going to the regions or people in need.

All too often HAC delays the registration of humanitarian organizations. International humanitarian organizations who have raised questions of human rights violations publicly or who have, for instance, asked questions relating to human rights to IDPs or others have often been harassed, their staff sometimes arrested and expelled.

The Sudan Relief and Rehabilitation Association (SRRA), the relief arm of the SPLM, has also frequently controlled with a heavy hand the international organizations that are authorized or refused authorization to work in the south. Civil society organisations in southern Sudan have little or no space for acting independently of the SPLM.

Recommendations:

- **Humanitarian organizations should not be unreasonably delayed or have impediments put in the way of independent and impartial humanitarian activities.**
- **Donors should ensure that financial and funding mechanisms, such as the Norwegian proposal of a Multi-Donors Trust Fund for the South, do not allow the GoS and the GoSS to continue to control the activities of Sudanese and international NGOs.**
- **Donors should show their support to strengthening the capacity and independence of Sudanese civil society organisations by funding projects and advocating for a human rights environment conducive to their activities.**

CONCLUSION

The signature of the Comprehensive Peace Agreement has offered some hope to the people of Sudan. The Joint Assessment Mission has produced an important framework in order to translate this hope into reality. However, without a real will to change in a human rights direction the hopes of the people will not be fulfilled. There are immediate measures, which do not require funding, that the government of Sudan and the SPLM can take to show concretely their commitment to a durable peace. Donors should support the aspirations of the Sudanese people, who demand that peace equals respect, protection and promotion of their rights.