

Report of an Investigation into Oil Development, Conflict and Displacement in Western Upper Nile, Sudan

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REPORT OF AN INVESTIGATION INTO OIL DEVELOPMENT, CONFLICT AND DISPLACEMENT IN WESTERN UPPER NILE, SUDAN

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INDEX

1.0	SUMMARY	2
2.0	INTRODUCTION	6
3.0	ACCESS TO INFORMATION and ACKNOWLEDGMENTS	9
4.0	LAND AND PEOPLE IN WESTERN UPPER NILE	12
5.0	SOURCES OF CONFLICT IN WESTERN UPPER NILE	14
6.0	GOVERNMENT OF SUDAN USE OF TRIBAL MILITIAS	16
7.0	HISTORICAL ORIGINS OF THE WAR	18
8.0	THE WAR IN WESTERN UPPER NILE	19
9.0	VIEWS FROM RURAL AREAS	23
10.0	OIL DEVELOPMENT AND CONFLICT	26
11.0	THE ROLE OF OIL COMPANIES IN THE WAR	31
12.0	CONCLUSIONS	39
13.0	APPENDICES	42
14.0	MAPS	49

1.0 SUMMARY

This report documents and places into context an intensification of armed attacks on civilians in key areas of Sudan's contested oil region in Western Upper Nile during 2000 and 2001. The attacks were carried out by Government of Sudan (GoS) forces and local pro-government militias and by rebel forces of, or aligned with, the Sudan Peoples' Liberation Army (SPLA) and the Sudan Peoples' Democratic Front / Defence Force (SPDF). A significant new development in the period 2000-2001 is a higher number of direct attacks on civilians by the armed forces of the Government of Sudan.

The report concentrates on the operational area of the Greater Nile Petroleum Operating Company (GNPOC), the oil consortium that comprises the China National Petroleum Corporation (CNPC), Petronas Carigali (the national petroleum company of Malaysia, or its subsidiary Petronas Carigali Overseas Sudan Berhad), Sudapet (the Sudan state petroleum company) and Canada's Talisman Energy (Talisman). As noted in the preliminary report of this mission, the investigators found that there was an increase in the number of recorded helicopter gunship attacks on settlements in or near this area. Some of these gunships have operated from facilities built, maintained and used by the oil consortium. The attacks are part of what appears to be a renewed Government of Sudan strategy to displace indigenous non-Arab inhabitants from specific rural areas of the oil region in order to clear and secure territory for oil development.

Control of the oil region of Sudan is contested between the government and several rival non-government groups. Most of the rural areas in the GNPOC concession have been outside the control of the Government of Sudan since the start of the current civil war in 1983. These areas have been intermittently controlled and administered by two rebel movements, the Sudan Peoples' Liberation Movement/Army (SPLM/A) (under the overall command of Dr. John Garang de Mabior) and the former South Sudan Independence Movement/Army – SSIM/A – (under Dr Riek Machar Teny). Today, control of the non-government areas of the concession is divided between the SPLM/A and commanders aligned with the Sudan Peoples' Democratic Front/Defence Force (SPDF), a successor movement to the SSIM/A.

For a short period in the late 1990s, a peace agreement between the Government of Sudan and Riek Machar's SSIM/A allowed for the extension of government authority into some of the rural areas of the concession, enabling expansion of oil development and completion of the pipeline from the oil fields north to Port Sudan. SSIA forces had joined the government and were formed into the South Sudan Defence Force (SSDF). The collapse of this peace agreement in 2000, the growing conflict between Government of Sudan forces and the former SSDF/SSIA forces, now regrouped as the Sudan Peoples' Defence Forces (SPDF), and the increased presence of the SPLA in the area have apparently prompted a modification of the government's military strategy. The new strategy in Western Upper Nile, this report suggests, is both more violent and more territorially focused, involving coordinated attacks on civilian settlements in which aerial bombardment and raids by helicopter gunships are followed by ground attacks from government-backed militias and government troops. These ground forces burn villages and crops, loot livestock and kill and abduct people – mainly women and children.

The increased intensity of the attacks, and the increased importance of oil in the war economy, has provoked attacks on oil installations by anti-government forces and further intensification of military activity on all sides. Pro-government and anti-government forces in conflict with one another have burned and looted villages in all areas of Western Upper Nile.

The known involvement of oil companies in the conflict extends to the documented use of their facilities by Government of Sudan armed forces. The oil companies are therefore, knowingly or unknowingly, involved in a government counter-insurgency strategy that involves the forced displacement of local people from rural areas of the concession.

Following the finding by the Canadian Assessment Mission to Sudan (the Harker mission) in December 1999 that helicopter gunships and Antonov bombers of the Government of Sudan had armed and re-fueled at Heglig and from there attacked civilians, Talisman acknowledged formally that its Heglig airstrip had been used for military purposes. (Heglig is a government garrison town that is the center of Talisman's oil

operations in Sudan.) In January 2000, the company stated that it had received undertakings from the Government of Sudan that military use of the Heglig airstrip would be limited to defensive purposes. However, in its Corporate Social Responsibility Report released in April 2001, Talisman conceded that in spite of what it described as its advocacy efforts regarding the use of oil infrastructure for offensive military purposes, “there were at least four instances of non-defensive usage of the Heglig airstrip in 2000.”

The present investigation concludes that the incidence of military usage has been considerably higher and that it has continued. The pattern of military usage is one of intentional targeting by gunships of settlements – without regard to whether they are occupied by civilians or combatants – in non-government controlled areas in and around the concession. The Government of Sudan is the only warring party with access to combat aircraft, ie helicopter gunships and aircraft that can be used for aerial bombardment.

The investigation has determined that at least two of the government’s helicopter gunships have been based at the oil facilities in Heglig. Defecting soldiers from the Government of Sudan army base in Heglig and civilian victims of gunship attacks testified to the investigators that gunships had flown regular sorties from Heglig to attack civilian settlements.

The investigators obtained eyewitness accounts from people attacked by gunships in non-government controlled areas of the concession throughout 2000 and 2001. These eyewitnesses identified flight patterns of the attacking helicopters that indicated they came from and returned to Heglig and other oil facilities in the concession.

The incidence of other human rights violations in and around the concession area escalated in 2000 and early 2001. The investigation documents a range of abuses connected with forced displacement of the inhabitants of the area. Defecting soldiers from the Government of Sudan’s military base at Heglig testified that they had been ordered to participate in ground attacks on non-government controlled settlements around Pariang (a government-controlled garrison town in the concession). This was part of an attempt to force the inhabitants out of the area. The soldiers said they had been instructed to kill civilians and any persons believed not to be loyal to the government. This, they stated, was for the purpose of securing the oil fields for development.

There were also a significant number of attacks and counterattacks on settlements by armed groups aligned with the SPLA/M, and by those aligned with the SPDF, the successor movement to the SSIM/A. (Since mid-2000, some of the latter have been supplied with ammunition from the government garrison in Bentiu.) Attacks, such as the attack in February 2001 on Nyal, a UN relief hub and SPDF command center, by Peter Gatdet Yaka, a commander aligned with the SPLA, have been documented in other reports, most comprehensively by Human Rights Watch (Presentation, “Oil and Human Rights in Sudan”, Jemera Rone, Sudan Researcher, Human Rights Watch at Fifth International Conference on Sudan Studies, Durham University, UK, August 31, 2000). There were at least five recorded attacks in 2000 and 2001 on oil installations or infrastructure by non-government forces (SPLA) in Western Upper Nile. (Three of these attacks occurred subsequent to the field research for this report.)

The effect of attacks from both Government of Sudan and non-government forces is to force the inhabitants of the area to flee their homes and move to other locations. These displaced persons become dependent, in most cases, on emergency aid. They are forced to choose among the following alternative places of refuge:

- non-government controlled areas to the south and west respectively in former Lakes province (Rumbek and Tonj Counties) or in Northern Bahr-el-Ghazal
- non-government controlled areas deeper in the swampland of Upper Nile (both within and outside the concession area)
- government-controlled towns in the concession (primarily Bentiu and Pariang)
- towns and commercial agricultural areas of Northern Sudan, far from Dinka and Nuer home territory

This forced displacement and concomitant loss of livestock is severely disruptive to the economy of Western Upper Nile. The inhabitants of the area, whose mode of life is based on agro-pastoralism and fishing, depend

on access to a range of natural resources in order to survive: dry season and wet season grazing grounds, dry season fishing areas, and wet season agricultural areas that are close to permanent villages. Freedom to move among these areas is essential to the agro-pastoral economy. Attacks on rural communities have a cumulative effect: repeated incidents of destruction of property, looting of livestock and loss of grain reserves make survival in the conflict-affected areas more and more difficult, eroding survival strategies to the point where displacement is the only option that remains.

Forced displacement from Western Upper Nile connected to oil development continued unabated in 2000 and early 2001. This continuing process of displacement has repeatedly interrupted the agricultural cycle and reduced livestock numbers, bringing the inhabitants of some areas close to destitution.

Conflict between the two rebel movements operating in Western Upper Nile and between those rebel movements and government-backed militias has also continued to be a significant cause of violent disruption of the lives of the civilian inhabitants of the area. But direct military action by government forces – in conjunction with pro-government militias – has now become an equally important factor.

The conflict in Western Upper Nile has seriously impeded the aid operation in Sudan. Operation Lifeline Sudan (OLS), the United Nations-led emergency relief operation, has a tri-partite agreement with Government and rebel movements to operate in both government and non-government controlled areas of South Sudan. But OLS access to airstrips in rebel-controlled areas has been progressively reduced by government flight denials and by the danger of aerial bombardment from government aircraft. In government-controlled areas (which are supplied by road from the North), access by displaced people to available food relief has also been limited: in April 2001, the United Nations' World Food Program reported that malnutrition rates in government-controlled Bentiu town were among the highest in South Sudan. (It was not clear to what extent these statistics reflected newly displaced persons from non-government controlled areas.)

In spite of claims to the contrary in oil company reports, this investigation, while unable to gain access to government-controlled areas of oil development and following numerous enquiries, is not aware of any evidence that significant economic or other benefits from oil development are accruing to indigenous communities in Western Upper Nile. There is no independent verification of claims that the Government of Sudan is using oil revenues to assist the civilian population in Talisman's concession (or in Southern Sudan in general). The two western oil companies operating in the area, Talisman and Lundin Oil of Sweden, have announced that they are sponsoring humanitarian assistance projects in areas around government towns and outposts. In the case of the government itself, there are no reports of government-funded development projects in Western Upper Nile.

Oil revenues do correlate, however, with visible increases in government military expenditure. For example, the Government of Sudan recently established, with Chinese assistance, three new factories for the manufacture of arms and ammunition near Khartoum. The contribution of oil revenues to the establishment of an arms manufacturing capability has been acknowledged in statements by several Government of Sudan officials (although this has been denied by other government spokesmen). On April 30, 1999, Agence France-Presse quoted a statement in the official newspaper *Akhbar al Youm* by Hassan al Turabi, a then high-ranking representative in the ruling National Congress, that the government would use earnings on oil exports to finance weapons factories. According to Hassan al Turabi: "We are currently building several factories to produce our needs in weapons, and we plan to manufacture tanks and missiles to defend ourselves against conspirators." ("Sudan to Manufacture Tanks, Missiles: Assembly Speaker," Agence France Press, Khartoum, April 30, 1999). Government ministers including Hassan al Turabi then claimed that the oil revenue would be used for construction and development. ("Dr. El-Turabi: Oil for War Is a Ridiculous Disinformation," *Al Rayaam*, Khartoum, May 6, 1999). But on July 1, 2000, the *Al-Shar Al-Syasi* newspaper quoted army spokesman General Mohamed Osman Yassin saying that Sudan "will this year reach self-sufficiency in light, medium and heavy weapons from its local production," thanks to its "unprecedented economic boom, particularly in the field of oil exploration and exportation," ("Sudan to Achieve Self-sufficiency in Weapons: Spokesman", Agence France Press, Khartoum, July 1, 2000). The new, intensified and more geographically focused nature of government military strategy is also, as argued in this report, clearly linked to oil development.

On the government side the pursuit of the war and oil development has involved the forcible recruitment of young teenagers into the armed forces. The investigation found that Southern Sudanese in their early teens have been conscripted into the armed forces of the Government of Sudan and trained at a military camp near Heglig, and that they are currently providing security in areas of oil development. (The use of child soldiers elsewhere in Sudan – by all warring parties – has been documented by several organizations, eg at www.child-soldiers.org). The SPLA has recently renounced the practice.

The investigation finds that oil development in Upper Nile has exacerbated civil conflict and assisted the war aims of the Government of Sudan, facilitating violations of human rights by government forces and government-backed forces. Talisman's claim that it serves as a positive influence on the Government of Sudan and its policies is not supported by the findings of the investigation; the evidence suggests that the company has been unable to achieve such constructive engagement.

Similarly, Talisman's argument that oil-company sponsored relief and development projects benefit people in the concession must be assessed in the context of these same companies' involvement in the government's war effort, even if unknowing and unacknowledged. This is particularly important in that those relief projects address social and economic problems that are themselves largely the result of government military policy in the oil fields.

The displacement of the rural population, the oil-company sponsored relief and development projects and oil development itself all contribute to a counter-insurgency strategy that has been consistently pursued by the Government of Sudan in the areas of South Sudan that border the government-controlled North. Western Upper Nile is one of these areas. Oil companies operating there are part of this government strategy, whether they like it or not.

The report concludes that there is, among other urgent issues, a pressing need to establish long-term, international, independent, large-scale, expert, on-the-ground, field-based monitoring of the effects of the war and oil development. Accurate, cross-checked information is hard to come by. One-off research projects such as the present report are of limited value; a long-term, continuing programme is required. Such a programme would monitor the response from non-government forces and violations of human rights in the conflict on all sides. It would provide a real-time response to incidents of war and offer the possibility of preventing and/or providing early warning of abuses. To be effective, the monitors would need to have free access to and freedom of movement within government-controlled and non-government controlled areas.

In the present circumstances, oil development and the associated presence of foreign oil companies in Sudan is damaging to the people of the oil areas. For their part, the companies effectively assist the Government of Sudan war effort, thus exacerbating the suffering of the inhabitants of the oil area and making the prospect of peace more unlikely. Only a radical change in their relation to the government could provide any justification for the oil companies' continued presence in Sudan. As the major providers of infrastructure and – by their own account – social services in Western Upper Nile, the onus is on oil companies to demonstrate that they are behaving as responsible corporate citizens rather than as mercenary commercial organizations. This applies particularly to companies that espouse human rights and good corporate practice, and particularly Talisman, which has called attention to its adoption of the International Code of Ethics for Canadian Business. Support for a monitoring regime as outlined above should be one of the preconditions for the continued involvement of foreign commercial enterprises in Western Upper Nile.

As the oil company most vocal in its claims for the benefits of oil development, Talisman, despite its vaunted commitment to human rights and good neighbourliness in its area of operation, has neither instituted nor encouraged the establishment of an independent, expert, long-term, field-based monitoring regime. In the absence of such a regime, the self-proclaimed attempts by oil companies and government agencies to mitigate the damaging impact of oil development cannot be adequately measured or assessed. In its absence, all mediation efforts in the war are compromised by lack of accurate information. Finally, without such a monitoring regime and without a concerted diplomatic effort involving coordinated action by donor countries to incorporate the findings of such a monitoring regime into negotiations with warring parties, oil development in Sudan can only continue to contribute, as it does now, to major human rights violations.

2.0 INTRODUCTION

The purpose of this mission was to investigate and report on the human rights situation in the oil development region of Sudan, in particular developments since the publication in February 2000 of the report of the Canadian Assessment Mission to Sudan (the Harker mission), which was undertaken in December 1999. The investigators' mandate was to produce a factual and interpretative report. The report does not make specific recommendations to sponsoring organizations.

The mission focused on Western Upper Nile, where the majority of the active oil exploration and production is taking place, specifically on the areas of operation of the Greater Nile Petroleum Operating Company (GNPOC). A preliminary report was issued in May 2001. This was a public document and was widely distributed. As of October 2001, there has been no response to it from any of the warring parties, or from companies working in oil development in Sudan. The present report is the final report.

The largest of the on-stream oil concessions in Sudan is operated by GNPOC, a consortium that comprises the China National Petroleum Corporation, Petronas (the national petroleum company of Malaysia), Sudapet (the Sudan state petroleum company) and Canada's Talisman Energy (Talisman). Talisman has a 25% interest in the consortium. The GNPOC/Talisman concession (the concession) covers Blocks 1, 2 and 4. The greater part of the concession is located in South Sudan, in Western Upper Nile (referred to as Unity State by the Government of Sudan and as Liech State by the Sudan Peoples' Democratic Front/Defence Force (SPDF) one of the two rebel movements that control most of its rural area). The area has been an intermittent zone of contention in Sudan's civil war, from 1983 to the present day.

Most of the rural areas in the concession have been outside the control of the government since the start of the current civil war in 1983. These areas have been administered successively by two rebel movements, the Sudan Peoples' Liberation Movement/Army (SPLM/A) and the former South Sudan Independence Movement/Army (SSIM/A). Today, control of the non-government areas of the concession is divided between the SPLM/A (the major rebel movement in Sudan) and the Sudan Peoples' Democratic Front/Defence Force (SPDF), a successor movement to the SSIM/A.

Human rights organizations and others (including most recently the newly-appointed UN Special Rapporteur on Human Rights in Sudan) have argued that there is a connection between oil development in Sudan and violations of human rights. Oil operations, in the view of these authorities, contribute to increased conflict and abuses of the laws of armed conflict. As noted above, the Government of Sudan has itself acknowledged that oil revenues financed the recent building of an ammunition factory near Khartoum. (There are in fact three new arms and ammunition factories in Northern Sudan. An SPLA commander, Peter Gatdet Yaka, formerly an officer in a government-backed Nuer militia, described, in an interview with the investigators, collecting arms and ammunition from these factories in 1999.) Many outside observers and many Sudanese, particularly Southern Sudanese, maintain that oil development in the present conditions is an obstacle to a just and peaceful resolution of the war. This is on the grounds that it raises the stakes in the conflict (in terms of the control of natural resources), and that it accentuates the disputed issue of the legitimacy of the Government of Sudan and that of rebel authorities in the contested area. These observers draw attention to the widespread and continuous abuses of the laws of war by all parties to the conflict. Oil companies, however, particularly Talisman, have argued that their presence has a moderating influence on government policy and that they are providing services for local people in the areas where they operate..

Other independent reports, notably that published by Christian Aid in March 2001 and by Human Rights Watch (forthcoming, 2002), document human rights abuses by all parties in the oil area, particularly in Block 5a, which is operated by a separate consortium that includes the Swedish company Lundin. (Blocks 1, 2 and 4 in the concession, form the contiguous area northwest of Block 5a). The present report focuses on the areas of operation of GNPOC, the consortium of which Talisman is a partner, examining two key issues: displacement of the indigenous population and the military use of oil infrastructure and facilities.

In May 2001, after the fieldwork for this report was completed, Talisman and Lundin announced that Lundin's oil assets in countries other than Sudan were to be purchased by Talisman. The deal did not,

however, include Lundin's interests in Sudan and does not seem to have led to any changes in Sudan at the operational level.

Talisman has taken a high-profile stand defending its role in Sudan, asserting its support for human rights and the beneficial effect of its presence in the oil development area. The company is a signatory to the International Code of Ethics for Canadian Business. Under this code, Talisman is committed to support and promote international standards of respect for human rights within its sphere of influence; to not be complicit in human rights abuses; to strive to ensure a fair share of benefits to stakeholders affected by its activities; and, to ensure consistency with universally accepted labour standards including non-discrimination in employment.

Prior to its annual general meeting in May 2001, Talisman published a report entitled Corporate Responsibility Report 2000, Sudan Operations (Corporate Social Responsibility Report) parts (but not all) of which were, "independently verified" by PricewaterhouseCoopers, a private sector consulting and accounting firm. In this report Talisman states, "We are committed to addressing human rights concerns arising from Talisman and GNPOC operations... We work to ensure that local communities receive long term, sustainable benefits from our operations." The report, though, contains only one other mention of human rights. Talisman warns that the report "is not a broad overall assessment of our presence in Sudan... in many cases [it] does not yet extend to verifying the outcomes of the policies and procedures introduced."

In its account of the verification procedure PricewaterhouseCoopers says, "There are currently no statutory requirements or generally accepted international standards for the preparation, public reporting and attestation of corporate social responsibility reports". Their verification procedure therefore "seeks to establish reasonable, rather than absolute, assurance on the statements and data tested."

Examination of this Corporate Social Responsibility Report shows that the verification process consisted of a field visit of unspecified duration, to government-controlled locations only (with an additional visit to Nairobi, Kenya), by an investigator without prior experience in the area. Although the report claims to address human rights, economic development and peace building, the authors, both of the report itself and of the verification statements, appear to be unacquainted with the basic literature on the ethnography and rural economy of Western Upper Nile and the history of the civil war, and are seemingly unaware of the decade-long UN relief operation in South Sudan, particularly as it affects the oil areas. The report does not acknowledge that the greater area of the GNPOC concession is outside government control and that the entire area is suffering the effects of a long-term social and nutritional crisis brought on by conflict between the government and its opponents. It contains no characterization of the terrain and a misleading characterization of the inhabitants of the region as "nomads". The inhabitants of Upper Nile are not, in fact, nomads. They are, for the most part, transhumant cattle pastoralists, farmers and fishermen, who live in permanent villages on higher land in the rainy season and move to grazing grounds closer to rivers during the dry season. Nomadic Baggara cattle herdsman use the northern part of Upper Nile for grazing in the dry season, but their presence is seasonal; they are not the inhabitants of the area. This has important implications in relation to oil development that are considered in greater detail below.

The present report is an independent, field-based account that details, inter alia, the often violent disruption of life in key locations in Sudan's oil development zone, specifically the northern part of Western Upper Nile. The investigative team proposed to visit both the government-controlled parts of the concession area and the greater area of the concession that lies outside government control. However, in spite of repeated representations to the embassies of Sudan in Canada and the United Kingdom and several requests to Talisman for facilitation of the visit, no government visas were forthcoming. The report is therefore based on visits to locations in Western Upper Nile, in or near the oil concession area, in the areas outside government control.

The investigators conducted interviews with local inhabitants and displaced persons in those areas. They also held discussions with field-based emergency humanitarian workers, Northern Sudanese Arab traders, Nairobi-based diplomats, Sudanese and non-Sudanese academics and researchers and local officials of the two rebel movements administering the non-government-controlled areas (the SPLM/A and the SPDF).

Although the Government of Sudan declined to issue visas, the investigators were able to speak to individuals who had recent experience of events in government-controlled towns, including former government employees and administrative officials, former members of the government armed forces and present and former employees of oil companies.

The investigation, funded by Canadian and British non-governmental organizations, was conducted between April 8 and 27, 2001, by Georgette Gagnon, an international human rights lawyer and member of the Canadian Assessment Mission (the Harker mission) that visited Sudan in December 1999, and John Ryle, an Africa specialist and author of previous studies on aid and human rights in Sudan. The researchers were assisted by Gai Thurbil, a Southern Sudanese journalist and Nuer and Arabic speaker.

3.0 ACCESS TO INFORMATION and ACKNOWLEDGMENTS

The findings of this investigation are the result of a series of visits in April 2001 to locations in non-government controlled areas in the concession and in adjacent areas of Western Upper Nile and Bahr-el-Ghazal. More than half of Talisman's concession is outside the control of the Government of Sudan and the majority of the concession's inhabitants are not under government authority.

The locations visited in Sudan were the following:

- Wunrok and Maper, centres in the SPLA-controlled Tuic Dinka area of Bahr-el-Ghazal near the western border of Upper Nile, where some of the Nuer and Dinka displaced from the western part of the oil fields have gathered.
- Buoth, near Mankien, in Bul Nuer territory in the far west of Western Upper Nile, an area currently controlled by Peter Gatdet Yaka, a Nuer commander formerly part of a pro-government militia, now aligned with the SPLA. Buoth is in the concession in Block 4.
- Nimne, in the Jikany Nuer area immediately east of Bentiu, controlled by a commander aligned, at the time of this mission, with Riek Machar's SPDF. Nimne is in Block 5a, close to the boundary of Block 1.
- Padit, in Ruweng Country, in the Pariang area north of Bentiu, the area that includes the Heglig oil well. This is a Ruweng (Panaru) Dinka enclave under the control of an SPLA commander, George Athor. Padit is in Block 5a; Pariang is in the concession in Block 1.

As explained, the investigators conducted extensive interviews with local inhabitants, people displaced from the region and field-based emergency humanitarian workers in these non-government areas. They also held discussions with aid workers and others in Nairobi and Lokichokio, Kenya. These interviewees included diplomats, Sudanese and non-Sudanese academics and researchers and officials of the two rebel movements administering the non-government controlled areas (the SPLM/A and the SPDF). The field interviews were conducted with the assistance of a Nairobi-based research assistant fluent in Arabic, Nuer and English, who was recruited independently of any of the warring parties. Interviews in Dinka were translated and transcribed with the assistance of local staff of international non-governmental organizations or local administrative officials. A number of interviews were recorded on video and relevant parts of the translations checked for accuracy by other native speakers.

Although the Government of Sudan declined to issue visas for the team, the investigators were able to speak to individuals who had recent experience of events in government-controlled towns, including former government employees, members of the government armed forces and employees of oil companies. Such indirect information gathering has recognized limitations. The investigators were able, however, to confirm key aspects of the findings by reference to diplomatic briefings given by Khartoum-based foreign embassy staff and by cross-checking with staff of international non-governmental organizations in Khartoum and with international news reporters who have had access to government areas.

In SPLA and SPDF controlled areas the investigators found that they had reasonable freedom of enquiry. Many discussions were conducted in open meetings, in the Nilotic tradition, and the researchers did not insist on private interviews with informants. The investigators were usually able, however, either by themselves or with the assistance of their research assistant, to conduct one-to-one informal conversations with individuals, without any monitoring by local security officials. Security conditions sometimes made relaxed enquiry difficult. In Padit, it was necessary to walk 10 or 12 miles from the airstrip to a point where there was a water source and relative security from aerial attack, before discussions could begin. In Nimne, after the court centre was buzzed by a helicopter from Bentiu, the pilot of the plane in which the researchers were travelling ordained an emergency departure.

The logistics of information gathering in Sudan are unusually challenging. It is important to understand the constraints that all investigators work under, including the authors of the present report, in order to assess

existing and future work in this field. The research for the present report was constrained by a number of factors. First was the limited field research time, 36 person-days in East Africa, 14 in Sudan itself. This restricted both the number of locations it was possible to visit and the length of time spent at them. Of the research time as a whole, a considerable period was unavoidably spent in bureaucratic procedures, in seeking advance assurances of cooperation on the ground from the two rebel authorities, in obtaining travel permits (and, in the case of the Government of Sudan, in the fruitless pursuit of visas). Arranging logistics and field communications in Sudan was also time-consuming. In certain locations the security requirements of air charter companies made overnight stays problematic. In Sudan, both North and South, these conditions are not out of the ordinary. Readers of this report and others should bear in mind that, for such reasons and others, accurate, cross-checked information is difficult to obtain. This is yet another reason why the establishment of a permanent regime of information gathering is a priority for anyone concerned with human rights in Sudan.

In spite of an aid operation active since 1990, there is no routine or continuous gathering of human rights information in Sudan. The security officers of Operation Lifeline Sudan (OLS) Southern Sector keep records of bombing raids and other security incidents, but do not specify the responsible party. (In the case of aerial bombardment, it can be assumed to be the responsibility of the government, since none of the rebel forces has any aircraft.)

Western Upper Nile, the focus of the present study, is a particularly remote area, surrounded by swamps and inaccessible by land transport except from the North (ie from the government side). In 2000 and 2001 it was the scene of some of the fiercest fighting of the war. This led to an intensification of the ongoing displacement of the inhabitants of the region and the partial withdrawal of the few aid agencies operating there.

Aid agencies working from the government side have access only to government-controlled areas. This excludes the majority of rural areas of Western Upper Nile. Agencies working on the non-government side (generally under the aegis of Operation Lifeline Sudan Southern Sector) have access only by air from Lokichokio, the centre for Sudan relief operations in the far north of Kenya. This is three or four hours flying time away. Access by OLS is subject to stoppages at the behest of the Government of Sudan, since OLS planes are required, by the practice established under the UN agreement with the government, to obtain permission from the government each month before they can use specific landing strips (including those airstrips outside government control). The vagaries of flight permission act as a further hindrance to aid operations and, consequently, to the gathering of reliable information about events in the area. During the period of research for this report most strips in Western Upper Nile were barred by the government. For this and other reasons the investigators used private aircraft operating outside OLS.

This situation with respect to physical access is not improving. A USAID Situation Report for Sudan (3 August 2001) notes that flight clearance denials by the Government of Sudan increased considerably in 2001. "At any given time," the report noted, "numerous locations may be closed by UN security and/or government denial of clearance for Operation Lifeline Sudan (OLS) relief flights." ("There is significant humanitarian concern," the report continues, "that Government of Sudan flight denials are restricting OLS access to parts of Western Upper Nile, where population displacement around the oilfields is increasing.")

OLS security reports for the first seven months of 2001 recorded 195 incidents of aerial bombardment in South Sudan as a whole, a significant increase on 1999, when there were 65 confirmed bombings. The increase in bombings has also been noted in reports from Sudan Focal Point and in US congressional testimony by Roger Winter, Director of the Office of U.S. Foreign Disaster Assistance (OFDA).

These OLS records of security incidents are one of the few areas in which reliable statistics exist. There are no reliable demographic statistics. Information from the World Food Program and other organizations provides a considered estimate of 204,000 people internally displaced from Western Upper Nile/Unity State between mid-1998 and February 2001. In Western Upper Nile, however, global estimates of the number of displaced people, or the population of particular districts, are just that - estimates. Population figures for certain specific groups of displaced people are provided by local authorities and UN agencies and quoted in the present report, but the displaced are scattered and move frequently, so the conditions do not exist to make more than an estimate of the total figure. There are no reliable base-line population figures for the

province, either now, or for the pre-war period. It is, however, possible to establish where there are, or have been, communities of a significant size in the oil areas. Some of these communities have been driven out, some are in process of being driven out and some still remain.

Before and after the research trip, several American and European news reporters visited Western Upper Nile, both on the government and the non-government side. Their findings, by and large, confirm the findings of this investigation. Their visits, however, were of even shorter duration. The limited results of one-off, short-term missions and the disproportionate effort involved in organizing them confirms, once again, the urgent need to establish a permanent and continuous human rights monitoring capacity for the Upper Nile region and Sudan in general, as outlined in the conclusion of this report.

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4.0 LAND AND PEOPLE IN WESTERN UPPER NILE

The Western Upper Nile region is part of a vast flat clay plain that surrounds the confluence of the White Nile, the Bahr-el-Ghazal (Nam River to the Nuer inhabitants of the region) and other tributaries of the Nile. The area is swampy in the rainy season (the Nuer tot) between April and September or October, and increasingly dry during the rest of the year. The inhabitants of the area live principally by herding, cultivation and fishing. During the dry season (the Nuer mai), from October to March, many of them move from their permanent high-ground, wet season villages closer to rivers, where there are sources of water, pasture for livestock and fishing grounds. This annual movement, over a range of up to a hundred miles, is what enables the people of Upper Nile to survive. Areas of dry season grazing, though they may have no permanent habitations, are nevertheless a vital part of local survival strategies; in the dry season such areas may be densely occupied by temporary cattle camps and fishing camps.

Three ethnic groups inhabit the region. The majority are Nuer, a non-Arab, largely non-Muslim people, speakers of one of several Nilotic languages of Southern Sudan. In the northern parts of Western Upper Nile there are also communities of Dinka – Ruweng or Panaru tribal sections. The Dinka are speakers of another Nilotic language, not mutually intelligible with Nuer, but many Nuer and Dinka are fluent in both and in many parts of Upper Nile there has been much intermarriage and consequent changing or blurring of ethnic identity. Like the Nuer, the Dinka of Western Upper Nile are primarily agro-pastoralists, non-Arab and largely non-Muslim.

In the far north of Western Upper Nile, at Lake Abyad, Dinka territory marches with that of the non-Arab Nuba people of Southern Kordofan. This northern part of Western Upper Nile is also used as a dry season grazing ground by Baggara Arab pastoralists from South Kordofan. In the dry season these Humr and Hawazma Baggara range as far south as the Bahr-el-Arab, the river known to the Nuer, in its Western reaches, as Col Pi. But in spite of suggestions in documents issued by Talisman, no part of Western Upper Nile is Arab territory.

The Dinka, the Nuer and the Baggara are among the best documented of all Sudanese peoples. They are the subject of classic ethnographic monographs by E.E. Evans-Pritchard, R.G. Lienhardt, P.P. Howell and Ian Cunnison, and more recent scholarly work by anthropologists and historians – Francis Mading Deng, Jok Madut Jok, Andrew Mawson, Sharon E. Hutchinson, Robert O. Collins, Lazarus Leek Mawut and Douglas H. Johnson.

The administrative borders of Western Upper Nile were established under Anglo-Egyptian condominium rule in the 1930s: the borders of the province followed those of the existing territories of these various ethnic groups. These core territories have been established for several centuries: a Western Nuer origin myth places their ancestral home at Kot-liech, in the Jagei district, south of Bentiu.

The main administrative centre in Western Upper Nile is Bentiu, on the Bahr-el-Ghazal (Nam) river. Other centres include Pariang town to the north, Wangkei and Mayom to the West, and Ler and Adok to the South. These are trading posts and garrison towns inhabited by government officials, merchants and military personnel, with a shifting, partly seasonal population of local people. The towns themselves are not always of historically fixed location. The names of settlements may also be new: Heglig, site of the northernmost oil well in Block 2, is an Arabic version of the name of an earlier-established Dinka village site, Wunthou. The population of the towns in Western Upper Nile has been augmented progressively by conflict in the rural areas during the course of the war. New settlements have developed around oil installations such as Rubkona, on the north bank of the Bahr-el-Ghazal (Nam), across from Bentiu (first established during the earlier phase of oil exploration, in the early 1980s, before the war).

Historically, there has been very little economic development in Western Upper Nile. In general, the area is not suitable for cash-crop agriculture; cattle off-take is limited by distance (and, until recently, reluctance on the part of cattle pastoralists to engage in trade). The area has also been politically marginalized. Like the rest of the South, it is outside the central riverain Arab polity that dominates the modern Sudanese state; it has been seen by the riverain political and economic elites as a peripheral region, mainly as a source of human

labour. The discovery of oil in the 1970s changed this, and the consequent alteration of the geopolitics of the region was a contributory factor in the war that began in 1983.

Before the start of the present war, temporary labour migration to northern Sudan was well established. The seasonal migration has been curtailed since the onset of the war, but there are large semi-permanent displaced populations of Nuer in northern cities and agricultural areas of the north. Most of these are in flight from the effects of the war.

Modern communications in Western Upper Nile are few. The most common mode of transport is walking. The expansion of oil development since 1998 has been accompanied by the construction of all-weather roads and bridges. Bentiu is linked now to Northern Sudan by a road to South Kordofan. Another new road leads to Pariang. There is another oil road, completed in 2001, leading south from Bentiu to Ler and Adok (on the river Bahr-el-Jebel, the White Nile) in Block 5a. A road leads west from Bentiu, following the northern bank of the rivers Bahr-el-Ghazal (Nam) and Bahr-el-Arab (Col Pi), through Kaikang and Abiemnhom in Block 4, towards Abyei, a Dinka area of Western Kordofan. This road has recently been renovated, but it is not clear if it is an all-weather road or the extent to which GNPOC was responsible for the renovation. The river Bahr-el-Ghazal is open to traffic as far as Wangkei (beyond Bentiu), but few barges operate on it; those that do go under heavy guard and mostly carry government military supplies. The new road along the north bank provides an alternative means of access for the government to supply Wangkei. There are many earth airstrips in Western Upper Nile: the land is flat so these are easy to clear, but most, like the roads, are subject to flooding in the wet season.

5.0 SOURCES OF CONFLICT IN WESTERN UPPER NILE

Competition for resources – for grazing and water – among the three ethnic groups in Western Upper Nile historically has been the source of raiding and counter-raiding among them. At the same time there has been much intermarriage, at least between Dinka and Nuer, and ethnic boundaries are by no means impermeable. Under the administration of the Anglo-Egyptian condominium and successor independent governments of Sudan, inter and intra tribal conflicts were regulated by annual meetings of leaders of communities that shared territorial borders and grazing grounds.

Even before the beginning of the present civil war in 1983, the government of Jaafar Nimeiri began to abandon this administrative role and began to encourage local Baggara militias to raid the Dinka and Nuer communities and thus expand their access to and control of territory to the south. (The arming of the Baggara may well have started earlier.) The policy was intensified under the elected administration of Sadiq el-Mahdi (who has special links with the Baggara through the Ansar religious movement of which he is the head). It has been continued by the present military regime. Support to these pro-government forces involves the supply of weapons to Baggara militias, coordination with government military operations and joint operations in which officers of government armed forces have accompanied militias on raids into Nuer and Dinka territory. On these raids, villages are attacked and burned and livestock stolen. In past years in Western Upper Nile women and children have been abducted and taken into slavery in the North by Baggara raiders. This practice still continues further west, in Bahr-el-Ghazal

Similar government support has also been provided to pro-government Nuer militias operating in the area against other Nuer groups and against Dinka groups. These have a history rooted in the complications of the civil war. The oldest of these militias, now headed by Paulino Matiep Nhial, a Bul Nuer from the westernmost part of Upper Nile, began as an anti-government force under the name of Anyanya II, in 1981. Conflict between Anyanya II and the SPLA, after the establishment of the SPLA and the beginning of the civil war in 1983, and the subsequent deaths in battle of a number of Anyanya II leaders, led to a split in the ranks of Anyanya II. Some joined the SPLA and others formed pro-government militias operating out of the government-controlled towns of Bentiu and Malakal.

In 1991, the SPLA itself split and a Nuer-dominated faction under Riek Machar (a Western Nuer from Ler) established a rival rebel movement which came to be known as the Southern Sudan Independence Movement / Army. Some of the pro-government Nuer militias that had fought the SPLA joined the SSIM/A, but others, such as Paulino Matiep's remained with the government. There was also clandestine support from the government for the SSIM/A in their conflict with the SPLM/A.

In 1997, a peace agreement between the SSIM and the Government of Sudan promised to reunite Paulino Matiep's forces with those of Riek Machar. The new pro-government army was named the South Sudan Defence Force (SSDF). When Matiep, with the encouragement of the government, maintained a separate military presence, the peace agreement broke down and in early 2000, Riek Machar returned to the bush and attempted to reestablish his movement, now renamed the Sudan Peoples' Defence Force / Democratic Front (SPDF). This did not, however, prevent raiding and counter-raiding among rival Nuer commanders in Western Upper Nile. In February 2001, for example, the SPDF-controlled court centre of Nyal, along with a Catholic Comboni mission and church, was razed in an attack by the forces of Peter Gatdet Yaka, a Bul Nuer commander aligned with the SPLA. In May 2001, an agreement between Riek Machar's SPDF and the SPLA was concluded in Nairobi. Some SPDF commanders subsequently joined the SPLA, but the agreement appears not to have been endorsed by Riek Machar himself, which may presage a further split in his forces.

Current lines of conflict among the Nuer in Western Upper Nile are the legacy of 20 years of fighting among rival leaders and tribal groupings, encouraged and exacerbated by a government policy of divide and rule. Although in some cases these lines of conflict reflect divisions among primary Nuer tribal sections, they do not follow them in a predictable way; they may equally be the result of personal rivalries among war leaders, or opportunism on the part of commanders seeking military supplies. Thus Peter Gatdet, for example, now an SPLA commander in Western Upper Nile, and the pro-government militia commander Paulino Matiep, whose deputy he once was, both hail from the Bul Nuer, and their core-supporters are from their respective subsections of Bul.

Conflict among Nuer groups in Western Upper Nile has been exacerbated by the alignment of certain commanders with the SPLA and others with the SPDF (and, earlier, with its predecessors, the SSDF, formed by Riek Machar's forces under the 1997 agreement, and, before that, the SIM/A). This is connected with a wider struggle for leadership of Nuer forces, one that extends to Eastern as well as Western Upper Nile.

As the authority of the rebel movements fragments, the affiliations of particular commanders and their followers become increasingly mutable. As the fighting becomes more frequent, the supply of arms and ammunition becomes an ever more crucial factor in the allegiance of particular commanders. The government and the SPLA are currently the only sources of weaponry in Western Upper Nile. So all forces are, openly or clandestinely, directly or indirectly, beholden to one of them for supplies.

For the government, supply to militias is part of a counter-insurgency strategy aimed at limiting support for anti-government rebel forces by depopulating the countryside and driving Southern populations that are deemed to be actually or potentially sympathetic to rebel movements into government garrison towns or further south, away from strategic areas. This strategy has been pursued all the way across the northern parts of Bahr-el-Ghazal and in Western and Eastern Upper Nile. In Western Upper Nile, the strategy has acquired a new focus with the advent of active oil exploitation and consequent greater need to control the areas around the pipeline and the roads, and the areas where rigs are situated.

6.0 GOVERNMENT OF SUDAN USE OF TRIBAL MILITIAS

Government of Sudan use of militias as proxy forces in the war in the South began during the government of Jaafar Nimeiri and continued under that of Sadiq el Mahdi, under the auspices of Burma Nasir, then Commander of the Sudanese Armed Forces (and himself a Baggara Arab from Kordofan). Soon after the beginning of the war in 1983, as noted, central government authorities abandoned their role as mediators in the recurrent grazing disputes that characterized relations between the Baggara tribes and the contiguous tribal sections of the Dinka and the Nuer. Instead, they began to channel weapons and ammunition to raiding parties of Murahaleen, the informal militias formed by Baggara tribes to protect their livestock during seasonal movement. These raiding parties attacked Dinka and Nuer cattle camps and villages, stealing livestock and abducting men, women and children.

At this point, Government of Sudan support for tribal militias appears to have been a general counter-insurgency strategy designed to increase pressure on the inhabitants of areas where there was to be potential or actual support for the SPLA. It was, that is to say, a general counter-insurgency strategy rather than part of a specific plan to regain control of the oil fields. It also had the function of containing discontent among the Baggara themselves. (As a pastoral group on the economic periphery of the North, the Baggara are inconsistent supporters of central government, particularly the present government which came to power after a coup against Sadiq-el-Mahdi, to whom the Baggara are linked as followers of the Ansar, the religious group of which he is the head).

It may be noted, however, that it was the abduction and killing of Chevron oil workers from Bentiu in 1984 by Anyanya II – then still in rebellion against the government, though also in conflict with the SPLA – that prompted the cessation of the first phase of oil exploration. President Nimeiri's attempt to expand the boundaries of the North to include more of the oil fields also contributed to the discontent in the South that precipitated the rebellion. So oil has been an issue since the beginning of the current war.

In certain parts of the concession, such as Abyei (a Ngok Dinka enclave in South Kordofan) and Abiemnhom (the Alor Dinka area in Western Upper Nile), the arming of the Murahaleen resulted in the expulsion of all the original Dinka inhabitants. These were the first groups of displaced Dinka in the north and in the South. At that time, from 1984 onwards, many Dinka from Bahr-el-Ghazal and Nuer from Upper Nile moved east to Ethiopia, where the SPLA had established bases and military training centres alongside refugee camps. For the Paweny Ruweng Dinka, the Awet Ruweng, the Kueldit Ruweng, and the Kuelruolpiny Ruweng (the Dinka subsections that comprise the inhabitants of Pariang district), the diaspora drove many of them to Ethiopian refugee camps, from which they were not to return until the early 1990s. Unlike the Ngok and Alor, however, they were never entirely driven out of their home territory. In the words of George Athor, SPLA Commander in the Ruweng area (himself a Dinka from Atar, to the West):

Since 1984-85 this place has been attacked by government militia, the Baggara. When they were attacked some of them went to the North; some went to the Ethiopian border. When the government of Ethiopia was toppled some moved to refugee camps: Kakuma [in Kenya], Adjumani in Northern Uganda and Mongalatore [in South Sudan].

- George Athor, Padit, 22 April 2001

In 1984, the first SPLA recruits began to return from the training camps in Ethiopia and counterattacks on Baggara began in Bahr-el-Ghazal and Western Upper Nile. Over the next 15 years the pattern of conflict and displacement in Northern Bahr-el-Ghazal was determined to a significant extent by seasonal raiding, counter-raiding and local agreements between particular groups of Baggara and particular groups of Dinka. In Western Upper Nile, however, Murahaleen raiding was curtailed by an agreement established in 1986 with the Baggara by SPLA Zonal Commander Riek Machar Teny (later leader of the breakaway SSIA), but the balance of power has lain with the Baggara. The government's establishment in the 1990s of Popular Defence Forces (PDF), auxiliary conscript armed forces often deployed in the frontline of battle, introduced a new element into the conflict. In Kordofan, membership of the PDF overlaps with that of the Murahaleen.

Government support - or license - for Murahaleen groups serves several functions. The first, obviously, is to harass the population of the SPLA areas, the Dinka in Bahr-el-Ghazal, the Dinka and, on occasion, the Nuer in Upper Nile. The second is to keep in check rebellious northern peoples (the Nuba of Kordofan in the case of government support for Humr Baggara militias).

In recent years, support to tribal militias has been incorporated into a wider set of tactics including more frequent sorties by government armed forces and intensified bombing of villages in the concession. The years 2000 and 2001 also saw a marked increase in the use of helicopter gunships to attack human settlements in Western Upper Nile. The effect of this intensification of conflict has been increased human displacement, further magnified by parallel conflict among rival rebel groups. This phase of convergence between counterinsurgency and oil development is the focus of the present report.

Since 2000, it seems, the government's particular targets have been the Bul Nuer and Leek Nuer areas of Western Upper Nile, where the SPLA Commander Peter Gatdet operates, and the Pariang area, a Dinka enclave that has been largely under SPLA control since the 1980s. These are targeted, it would appear, because they are SPLA controlled and because they are also in or contiguous to the oil fields. These areas are a particular focus of this report. The Western Jikany Nuer, Jagei Nuer, and Dok Nuer have also been affected. Conflict between the SPLA and the SPDF – specifically between the SPLA Commander Peter Gatdet and Commanders Tito Biel and Peter Paar Jiek of the SPDF – is the other principal source of disruption in Western Upper Nile. In both cases a scorched earth policy has left burned settlements across the province. Scorched earth is not the prerogative of government forces.

At the same time as pursuing this military strategy, the government used diplomatic means to restrict aid flows to Upper Nile through Operation Lifeline Sudan (OLS), the United Nations-led emergency relief operation, by denial of airstrips in affected areas, and latterly by bombing of airstrips. OLS operates under a tri-partite agreement between the UN, the government and the rebel movements in order to operate in both government and non-government controlled areas of South Sudan. OLS access to airstrips in rebel-controlled areas was reduced systematically in 2000 and 2001 by government flight denials, by the danger of aerial bombardment from government aircraft and by persistent insecurity due to clashes between the forces of Commander Peter Paar and Commander Peter Gatdet. Government-controlled towns may thus become the only recourse for displaced inhabitants of the rural areas. In April 2001, the United Nations' World Food Program reported that malnutrition rates in government-controlled Bentiu town were among the highest in South Sudan.

A more recent development has been the demand by the government that all OLS Southern Sector personnel apply for government visas and travel permits, despite the fact that they are not operating in government-controlled areas. This is a diplomatic ploy that contradicts a decade of habitual practice since the establishment of OLS in 1989 and is seemingly designed to put OLS Southern Sector in general on the defensive.

Many Southern Sudanese argue that there is a further war project, more ambitious and more nefarious, on the part of successive northern governments, and that support to the Murahaleen forms part of this. This project is to progressively depopulate southern regions, particularly Upper Nile and Bahr-el-Ghazal, to deracinate their inhabitants and transform them, in the case of the Dinka and the Nuer, from cattle-rich agro-pastoralists living in their own land into a landless, assetless sub-proletariat – a reservoir of cheap labour – in the North of the country. Once in the North these Southerners are shorn of their culture and made ready for progressive incorporation into an Arab-Islamic polity, assuming a place at the bottom of the socio-economic pyramid.

It may be argued that, whether or not it is part of an explicit policy, this is indeed the slow effect of current displacement. Whether or not such a political-demographic shift is the immediate strategic aim of the government, the fact that it is believed to be so by many educated Southerners has become a factor in the war.

7.0 HISTORICAL ORIGINS OF THE WAR

The war in Western Upper Nile is part of a deep-rooted conflict in Sudan that first manifested itself in rebellion at independence in 1956. As the imperial power withdrew, southern units of the army mutinied against the newly independent government, a government dominated by Arab political elites from the economically developed central riverain area of the North. A low intensity conflict lasted for 16 years until the Addis Ababa Agreement of 1972.

A primary cause of the conflict was – and remains – the political and economic marginalization of the three southern provinces of Sudan – Upper Nile, Bahr-el-Ghazal and Equatoria – provinces that formed the Southern region, which was declared an autonomous region of Sudan as part of the Addis Ababa Agreement that ended the first war. The dispute between South and North is exacerbated by cultural differences: almost all Northerners are Muslims, a majority are Arabs; most Southerners are non-Arab and non-Muslim and many are Christians.

The Addis Ababa Agreement that ended the first civil war in 1972 held for 11 years. Several factors led to the renewal of conflict. One factor was the construction of the Jonglei canal through the southern swamps to increase the flow of water downstream to Northern Sudan and Egypt, a project that threatened the balance of dry and wet season grazing in the Dinka and Nuer areas. This was followed in 1980 by the attempt of President Nimeiri to redraw the boundaries of Upper Nile Province to include more of the oil areas in the North. Another important factor was the dissolution in 1983 of the Southern regional government established under the Addis Ababa Agreement. A fourth factor was the imposition of Islamic Sharia law by President Nimeiri.

In February 1984, three expatriate Chevron oil workers were killed at Yoinyang, near Rubkona in Upper Nile. The previous year, in 1983, a rebellion by a southern army garrison in Bor heralded the start of the civil war. Rebel army officers formed the Sudan Peoples' Liberation Army (SPLA) in Ethiopia under the leadership of Dr. John Garang de Mabior, still its leader today. In the early years of the war, rival southern rebel groups such as Anyanya II, responsible for the deaths of the Chevron oil workers, were incorporated into the SPLA or militarily defeated by it; some went to the government side. By the late 1980s, the SPLA controlled most rural areas of the South.

In 1991, after the collapse of the Derg government in Addis Ababa, the SPLA lost its rear bases in Ethiopia and split into two: a breakaway faction led by Dr Riek Machar Teny Dhuorgon became the South Sudan Independence Army/Movement (SSIM/A). The ethnic basis of this split is the key to much of the internecine fighting within the south. The SSIM/A was a mainly Nuer movement while the SPLA, in the aftermath of the split, was dominated by Dinka. The split in the rebel movement brought the ethnic issue within the South to the fore. After the split, most of Upper Nile, a largely Nuer area, was controlled by the SSIM/A, and most of the rest of the South by the SPLA.

The split and the subsequent fighting among rebel groups in the South has played into the hands of government apologists who seek to portray the South as mired in tribalism and ethnic division. This portrayal ignores, however, the role of the government in accentuating and exacerbating these divisions. A policy of divide and rule is part of the proxy war the Government of Sudan has fought in the South through its use of tribal militias. When apologists for the Government of Sudan, including representatives of oil companies operating in Western Upper Nile, ascribe displacement to “faction fighting” or “tribal conflict” they neglect two important factors: the government's material support for certain of these factions and, in recent years, the growing incidence of direct government military action against settlements in the area.

In the 1990s, as the SPLA pursued alliances with the exiled northern opposition against the government in Khartoum, the SSIA moved towards an agreement with the government. A Political Charter, signed by Riek Machar and another former SPLA commander, Cdr Kerubino Kwanyin Bol in April 1996, was incorporated into the Khartoum Peace Agreement in 1997. This made possible the renewal of oil exploration and development in Upper Nile. The breakdown of this agreement in 2000 and the renewal of conflict in Upper Nile have led to the present grievous situation.

8.0 WAR IN WESTERN UPPER NILE

Most of the rural areas in the concession have been outside the control of the government since the start of the current civil war in 1983. Those areas have been administered successively by two rebel movements, the Sudan Peoples' Liberation Movement/Army (SPLM/A) and the former South Sudan Independence Movement/Army (SSIM/A). Today, control of the non-government areas of the concession is divided between commanders aligned with the SPLM/A and those aligned with the Sudan People's Democratic Front/Defence Force (SPDF), the successor movement to the SSIM/A.

During most of the past 15 years in Western Upper Nile, the armed forces of the government have been confined largely to garrison towns and to roads leading from those towns to the north. The government's military strategy during the greater part of this period has been to support proxy forces - Baggara Arab militias from the North and pro-government Nuer groups within the South. As described, these militias have been encouraged to attack and loot Nuer and Dinka settlements and cattle camps, driving their inhabitants further south or into government garrison towns or to the government-controlled North of the country.

In Western Upper Nile, the northernmost Nuer groups, those north of the rivers Bahr-el-Arab (Col Pi) and Bahr-el-Ghazal (Nam) were driven south by Murahaleen raids in the early 1980s. But an enclave of Ruweng Dinka remains under SPLA administration in their traditional area of Pariang, north of Bentiu, in the heart of the concession. During the early period of the war, from 1983 to 1985, there was conflict between the SPLA, which then enjoyed the support of Nuer and Dinka and other Southerners, and an earlier, largely Nuer, separatist rebel group, Anyanya II. After the defeat of Anyanya II and the death of its leaders at the hands of the SPLA, the rump of Anyanya II forces, mostly Bul Nuer from Western Upper Nile under the leadership of Paulino Matiep, turned to the government for support. These groups operated out of government garrisons in Bentiu, Malakal and Nasir (until the capture of the latter garrison by the SPLA). Gordon Kong Cuol had rejoined the SPLA in 1988, bringing most of Anyanya II with him. This enabled the SPLA to take Nasir in 1989. After the SPLA split in 1991, Gordon Kong Cuol and most of the other pro-government militia leaders rejoined Riek Machar in the largely Nuer group that came to be known as the South Sudan Independence Movement / Army. But Paulino Matiep remained with the government.

During the following seven years there were repeated accusations from the SPLA that the SSIA was in receipt of clandestine material support from the Khartoum government. In 1997, Riek Machar and some other erstwhile Southern rebels signed a peace agreement, under the banner of building "peace from within." In return, the government undertook that the Southerners could exercise their right of self-determination in a referendum to be held after an interim-period of four (or more) years. But the agreement did not bring peace even to Nuer regions and the government did not cease to play one Nuer leader off against another.

After the April 1997 peace agreement, in August 1997, Riek Machar assumed the Presidency of the Coordinating Council of the Southern States (Southern Council). His forces were redeployed as a government army in the South, the South Sudan Defence Force (SSDF). Despite the provisions of the peace agreement, however, Riek Machar's forces were not integrated with those of then pro-government militia leader Paulino Matiep. In December 1997 Riek Machar's nominee became Governor of Unity State (Western Upper Nile). In 1998, Paulino Matiep, who favoured another candidate, attacked and destroyed a number of settlements including the administrative and market centre at Ler, near Riek Machar's birthplace. Machar charged that the government was not honouring the peace agreement and, in January 2000, resigned and left for Nairobi where he attempted to re-establish his forces under the banner of the SPDF. Meanwhile Matiep, now the nominal leader of a coalition of all the pro-government militias in the South, and sometimes using the name the South Sudan Defence Force (SSDF), continued his depredations (although the majority of the original SSDF, formed by Riek Machar under the 1997 Khartoum Peace Agreement had now joined the SPDF).

After the breakdown of the agreement, a complex realignment of forces occurred in the Nuer areas, with the loyalty of individual commanders now uncertain and subject to alteration. The return of SSDF forces (formerly SSIM/A) to their bases in non-government areas and the formation by Riek Machar of a new non-government grouping, the SPDF, prompted an alteration in the Government of Sudan's military strategy. The new strategy in Western Upper Nile is both more violent and more territorially focused, involving

coordinated attacks on civilian settlements in which aerial bombardment and raids by helicopter gunships are followed by ground attacks from government-backed militias and government troops. These ground forces burn villages and crops, loot livestock and kill and abduct men, women and children. Ruweng County, north of Ler, close to the oil installations, was a particular target from 1999 on.

Local leadership and political loyalties are a complex issue, but access to ammunition is a key issue. None of the Nuer groups has significant sources of monetary income, or access to friendly bordering countries, so they are dependent for matériel either on captured supplies of weapons and ammunition or on the provision of them by the government or by the SPLA. The militias that have a formal association with the government, such as that led by Paulino Matiep, clearly obtain their supplies from the garrisons where they are based. They have government army officers with them on manoeuvres (or operations). At least some of the commanders aligned with the SPDF, such as Peter Paar Jiek in Western Upper Nile, are also obtaining supplies from the government, although this is usually denied. In a statement to a press conference in Sweden called by Lundin Oil, John Dor, the government-appointed governor of Unity State (Western Upper Nile) described the security situation on the Bentiu-Ler road as follows:

Local militiamen control most of the road and give psychological and physical protection to the people (SSIM under the command of James Liah and Peter Phar [sic]).

- Statement by John Dor, Governor of Unity State, Lundin Oil, Stockholm, May 2001

A Canadian consular official based in Khartoum, Nicholas Coughlan, reported after a visit to Bentiu that the Government of Sudan had “been giving some direction to their local militias, under the command of Paulino Matiep and Peter Parr [sic]. No less than 2000 pro-GoS militia were observed heading east from Rubkona recently, on foot, towards Gadiet-controlled territory.” (Nicholas Coughlan, e-mail correspondence dated March 1, 2001, Canadian Consular Officer, Khartoum).

At least one former commander of a pro-government militia, Peter Gatdet, once a deputy to Paulino Matiep, has now formally joined the SPLA. The extent to which he is under the ultimate command of the SPLA is an open question, as is the extent to which Peter Paar Jiek is under the control of the government.

The fissive nature of Nuer society has been exploited both by the government and the SPLA in their attempts to gain control of the oil areas, but most systematically by the government. The recent intensification of conflict on both sides has extended the conflict zone and caused new displacement from rural areas. Inhabitants of affected areas have been driven south into the zone controlled by the SPLA and north into garrison towns controlled by the government. These towns do not provide significant sources of employment, so the rural displaced are forced to become dependent on food aid, or move further away from their home area, into the North.

In retrospect, the significance of the Khartoum Peace Agreement was that, for a short period from 1997 to 1999, it allowed the extension of government authority into some of the rural areas of the concession. This enabled expansion of oil development in the concession and completion of the pipeline from the oil fields north to Port Sudan.

The Khartoum Peace Agreement was thus not so much an agreement among warring parties but a temporary alliance. It provided the window of opportunity in which the government and the oil companies could present Western Upper Nile to investors as a zone of peace, an area that was under government control. Since late 1999, however, it has been the key theatre of war in Sudan.

The past two years since the breakdown of the Khartoum Peace Agreement in 2000, have seen the emergence of an increasing number of independent commanders in Western Upper Nile who enjoy support from Khartoum. Paulino Matiep is the titular head of these forces, known as the South Sudan Defence Force, SSDF (not to be confused with the successor organization to the SSIM/A, the SSDF, the pro-government army as formed by Riek Machar under the 1997 Khartoum Peace Agreement, or the SPDF, Riek Machar's current, non-government grouping). But the SSDF does not appear to be unified operationally. More recently there has also been a declaration of unity between the SPDF and the SPLA. It is not clear whether this declaration is endorsed by Riek Machar. At the time of this investigation there was a de facto ceasefire between these two

groups. But the results of conflict between them some months earlier were still evident in reports of burned villages in Western Upper Nile, south of the areas visited, and in numbers of displaced people in Lakes Province of Bahr-el-Ghazal.

There are thus, broadly speaking, seven forces currently operating in Western Upper Nile.

- Government armed forces – army and airforce.
- Baggara Arab militias from the North, supplied by the government since the early 1980s and operating in concert with government forces. Their sphere of operation is limited to the areas north of the Bahr-el-Arab (Col Pi) and Bahr-el-Ghazal (Nam).
- The official pro-government militia of Paulino Matiep, which currently operates out of the government garrison in Mayom.
- The SPDF forces of Peter Paar Jiek, which since the breakdown of the April 1997 peace agreement between the SSIM (the precursor of the SPDF) have had no official connection with Khartoum, but have received military supplies from the government.
- Other SPDF commanders presently inactive.
- The forces of Peter Gatdet Yaka, a former officer in Paulino Matiep's militia, now aligned with the SPLA, based, mid-2001, in Buoth, in the Bul area of Western Upper Nile.
- An SPLA unit in Ruweng County under the command of George Athor (and, intermittently, other mobile SPLA units, including the unit under the command of Bior Ajang that attacked the oil installations at Heglig on August 5, 2001.

All these forces except the last have at one time or another received arms and ammunition from the government. In the case of Peter Gatdet, however, it may be assumed that he no longer does so. In Buoth, Commander Gatdet showed the authors of this report arms and ammunition that he had brought with him when he defected from Paulino Matiep's militia. These included AK-47s and PKM machine guns and bullets that had been assembled in one of three new Chinese-built factories near Khartoum. Commander Gatdet described visiting these factories himself to collect these supplies. These factories are of recent construction and it is reasonable to associate their establishment and the increased flow of arms and ammunition to various parties in the war with revenues from oil development.

Since 2000, Upper Nile and particularly Western Upper Nile has become the main area of insecurity in Sudan. Operation Lifeline Sudan (OLS) sources document an increasing number of ground attacks with consequent displacement during 2000 and 2001. A further effect of hostilities has been the displacement of non-governmental organizations. Non-governmental agencies that were operating in Ler, Nhialdiu, Nimne and Duar have been compelled to evacuate international staff and abandon long-standing operations. Elsewhere in South Sudan, UN agencies and international non-governmental organizations have remained despite government bombardment. In Upper Nile, however, the combination of bombardment and attacks by militias or government troops has made their operations untenable. During 2001, OLS was able to reach only a few locations with "hit-and-run" drops of food and medical supplies. Médecins Sans Frontières-Holland, which has been operating in Western Upper Nile since 1989, reported that it lost access to three sites in 2000: Wicok and Boaw were attacked by the SPDF and Koch was attacked by Peter Gatdet's forces in September 2000. Two MSF staff members were killed in the latter attack.

Government aerial attacks on locations in South Sudan where there are aid centres have become routine. Specific protests to the government on behalf of aid agencies are, surprisingly, no longer routinely made in the aftermath of attacks (though an unusually heavy bombardment of a relief centre in Bahr-el-Ghazal in October 2001, after the research for this report was completed, provoked condemnation from the UN Under-Secretary-General for Humanitarian Affairs.) The systematic effect of these government and government-backed attacks in Western Upper Nile needs to be emphasized. It is a double effect: not only do the attacks make existence in rural areas increasingly perilous and difficult, they also drive aid agencies out of the areas (most of which are outside government control) thereby forcing their inhabitants into government

areas in search of security. This puts these inhabitants under government control, deprives rebel forces of a potential support base, and makes it easier to establish clear areas for oil development. Government scorched earth policy and practice in Western Upper Nile is part of an existing counter-insurgency strategy now given added impetus by the search for oil.

Scorched earth tactics in normal military terminology are part of a strategy of retreat, whereby troops devastate the countryside as they go in order to destroy all means of sustenance and shelter for advancing forces. In Western Upper Nile, burning villages is more an intermittent terror tactic, part of a general strategy designed to make particular rural areas hard to live in and their inhabitants frightened to stay. Looting and theft are as important as destruction of property. (The prospect of loot is also an inducement to militia and soldiers, usually poorly paid or unpaid, to participate in raiding). The aim appears to be to depopulate large areas of the state and redistribute the population, either into the vicinity of government garrison towns or out of the state altogether.

9.0 VIEWS FROM RURAL AREAS

The research sites for the present report were selected to provide a representative sampling of the inhabitants of non-government controlled areas in or near the concession area, to afford the best opportunity for information gathering about current events in the oil areas and to best inform the analysis of the role of oil development in the conflict. The duration of the research meant that a systematic survey was out of the question. The conditions of conflict necessitated an opportunistic approach to obtaining information. The groups and locations represented as diverse a sample as possible in these circumstances.

9.1 DISPLACED NUER AND DINKA IN NORTHERN BAHR-EL-GHAZAL

The first location, Wunrok, is the administrative centre for Wunrok payam in Tuic county, an SPLA-controlled area of Bahr-el-Ghazal near the border with Upper Nile. Here, and in Maper, further towards the border with Upper Nile, the investigators interviewed a number of Nuer and Alor Dinka displaced respectively from Mankien, a Bul Nuer area in Upper Nile, and Abiemnhom, also in Upper Nile (mostly since the beginning of 2000). Displacement of people has occurred all over Western Upper Nile and there are also large numbers in the Dinka area to the south. Although Wunrok and Maper have become places of refuge for people fleeing the oil areas, this does not mean they are safe. As the administrator of a clinic serving displaced people described the weeks prior to the researchers' visit, a period that had seen more than one government bombing raid:

The people who have lost their cattle come this way. It is because of safety, not because we can get relief. But now Antonovs have started coming every day.

A Jikany Nuer described his journey the previous year from Nimne, near Bentiu:

Murahaleen were advancing so I had to cross the river [between Nimne and Bentiu]. I was the first to go. I told people I was going to a better place where I could get food. Lack of food can cause confusion. People think that if they go to the government side they will be given money and arms. But I was caught and taken to Heglig. The people there were being trained by Paulino [Matiep, pro-government Nuer militia leader]. His people are in Heglig town. So I escaped and came here.

~ Kerabino Ruei, Maper, 18 April 2001

9.2 DISPLACED BUL AND LEEK NUER

The second location visited, Buoth, near Mankien, is in Nuer territory in the far west of Western Upper Nile, part of the area controlled by Peter Gatdet, a Bul Nuer commander formerly part of a pro-government militia, now aligned with the SPLA. One of the authors of the present report visited Nhialdiu, in the same area, as a member of the Canadian Assessment Mission in 1999 and interviewed Peter Gatdet there. The investigators thus were able to re-interview Gatdet and other key figures in the administration of the area in Buoth. These included Martin Mashod Deng, currently Commissioner of Mayom County under the new SPLA administration and Chief Tunguar Kueiguong Ret, Chief of the Leek Nuer, one of the senior chiefs of the Western Nuer, currently residing in Buoth and holding the position of Commissioner of Rubkona county under the SPLA administration. The other author of this report was also acquainted with Chief Tunguar from a visit to Western Upper Nile in 1994.

Tunguar and Martin Mashod reported that the groups of displaced persons living in Nhialdiu that were visited by the Canadian Assessment Mission in December 1999 had been forcibly displaced again in early 2001 to Buoth and other areas. Chief Tunguar also described the historical succession of Leek Nuer displacement from their home area north of the river, between Bentiu and Wangkei, in what are now the Unity and Heglig oil fields. In the early 1980s, he explained, they were forced to cross to the south of the Bahr El Ghazal (Nam) river from their territory to the north. This area to the north of the river, in Block 4

– the Leek and Bul area round Wangkei and the Bul area further West round Mayom – is the focus of current GNPOC expansion, a new road being visible from the air leading there from Bentiu. These areas have been described in Talisman literature as “No Man’s Land”, but they were until recently, as Chief Tunguar explained, the site of many settlements and key grazing areas for the Leek and Bul Nuer.

Tunguar explained how he and his people had been displaced from their homes north of the Bahr-el-Ghazal (Nam) River in the early 1980s, at the beginning of the war, by Baggara Arab Murahaleen militias armed by the government. They had resettled in a contiguous Leek area immediately south of the river, where one of the investigators met Chief Tunguar in 1994. In 1999 and 2000, they had been displaced again by the conflict (described above) between the pro-government forces of Paulino Matiep and those of Peter Gatdet. They were now living under Gatdet’s protection.

As an example of the extent of devastation in the area Chief Tunguar provided a partial list of settlements in the concession areas of Rubkona county whose inhabitants had been driven out since the beginning of the war. The settlements comprised the following: Pul, Letna, Kuor, Dualdong, Nyabola, Panakuach, Yaar, Barkuor, Giw, Cotjok, Darbiem, Diyian, Wangyiek, Gethloy, Payanggam, Kainhial, Tharlual and Kaljak.

9.3 JIKANY AND OTHER DISPLACED NUER

The third location visited was Nimne, in the Jikany Nuer area immediately east of Bentiu. Nimne is in Block 4, close to the boundary with the GNPOC-operated Block 2. It is currently controlled by a commander loyal to Peter Paar Jiek, and aligned with Riek Machar’s SPDF. As explained, Peter Paar’s forces are effectively a pro-government militia and Nimne, which is within striking distance of Bentiu, has never been subject to government attack while under SPDF control. Inhabitants of Nimne and displaced people who live there have comparative freedom of movement in and out of Bentiu (though there is a river, the Durdur, in between, making Nimne a refuge of sorts). Shortly after the investigators’ arrival, a helicopter overflew the court centre where the investigators were meeting local community leaders. At the insistence of the pilot of the rented plane, the team departed immediately. Before leaving, the investigators were able to talk to a local man, John Chop, from Nhialdiu, who had come from Bentiu two days previously, about community development in Bentiu.

There is no change. The oil company did not do any development. Getting medical treatment is a problem. There is no hospital. In April this year many children died, from meningitis, from malaria. And malnourishment too.

– John Chop, Nimne, 16 April 2001

9.4 RUWENG DINKA

Pariang, in Ruweng County north of Bentiu, was the fourth and final field location visited in the investigation. This is the area that includes the Heglig oil well. The area is a Ruweng Dinka enclave that has been under SPLA control since the beginning of the war, and is under the control of an SPLA commander, George Athor. It remained outside government control during the period of the Khartoum Peace Agreement, between Riek Machar’s SSIM/A and the government. Since the breakdown of the agreement, the area has been the target of intensified attacks from government and pro-government forces.

An OLS report from February 2000 records a government ground offensive in Ruweng County in April 1999 that caused displacement of the population to dry-season grazing areas in the south and bush areas in the northeast of the country, away from oil development areas. The offensive continued throughout May 1999, culminating in aerial bombardment and helicopter gunship attacks in June and July. In August there were further ground attacks by government forces, and cattle looting in September and October, also by government troops.

Since 1999, Padit has been a place of refuge for people displaced from other parts of the concession, particularly from Block 1. The present inhabitants of the area include people displaced from Biem, a location

visited by one of the researchers in December 1999. At that time, the inhabitants of Biem reported having been forcibly displaced during the months of May to August 1999 from Gumriak and other villages north of Pariang. Human Rights Watch has also documented the complex pattern of repeated forced displacement in the Ruweng county area. (Presentation on “Oil and Human Rights in Sudan” by Jemera Rone, Sudan Researcher, Human Rights Watch at the Fifth International Conference on Sudan Studies, Durham University, UK, August 31, 2000). Ruweng county is, perhaps, the clearest example in the whole of Upper Nile of deliberate forced expulsion of local people from their homes by government forces in order to secure an area for oil development.

The investigators received, but were unable to verify, reports that Talisman's expansion activities in 2000 in Block 4 in Kaikang were preceded by forced displacement of the inhabitants of seven villages in the Kaikang area by government-backed militias and by the bombing of villages in non-government controlled areas close to the expansion site.

10.0 OIL DEVELOPMENT AND CONFLICT

Sudan has estimated oil reserves of 262.1 billion barrels. The current estimate of recoverable resources of 750 million barrels will be exhausted by 2015 unless new fields are found and developed. Most of the areas of potential oil production are in the South of the country or in areas of the North near the North-South border. All these areas are in, or close to, the current theatre of war. Control of the oil areas of the South is thus of great strategic importance. Oil from the Muglad Basin, the geological zone that includes the currently operational wells, is of a heavy viscous quality. This poses certain technical problems for transportation and processing. For this reason, oil extraction in Sudan has necessitated advanced technology only available from western companies.

In 1975, Chevron Overseas Petroleum Company was granted the first oil concession in Sudan. In 1976, operating out of Muglad in Kordofan, Chevron made its first strike near the border between Kordofan and the Southern Region, in the Unity and Heglig fields. Realizing that there were greater quantities of oil in the South, beyond Bentiu, Chevron subsequently moved its headquarters from Muglad to Rubkona, near Bentiu, in the Nuer area, building an airstrip there.

In the early 1980s, however, two related political developments exacerbated growing disenchantment in the South with the government in Khartoum. One was the dissolution of the autonomous Southern region and the redivision of the South into three regions. The other was the related attempt to redefine the boundary between Upper Nile and Kordofan to include more of the oil fields in the North. In February 1984, in the political ferment in the South that led up to the civil war, a detachment of Anyanya II, a Nuer rebel group, killed three expatriate Chevron employees near Bentiu, as described above. Chevron immediately terminated its operations and withdrew from Sudan. A report in the Wall Street Journal at the time quoted John Silcox, then president of Chevron's overseas operations, explaining why the company did not resume operations in Upper Nile: "[W]e have to have access to the south before we can go back to work and we're not going to expose our employees to undue risk. And being in the middle of a civil war zone is an undue risk in our opinion." ("Sudan is Stepping Up Pressure on Chevron Corporation," Wall Street Journal, New York, November 1, 1984).

In 1992, Chevron sold its major Sudan concession. Shortly thereafter, part of it, consisting of Blocks 1,2, and 4, was acquired by Arakis Energy Co. of Canada. In July 1996, small amounts of crude oil were brought on stream and transported to a refinery at El Obeid for domestic use. Later in 1996, Arakis sold 75 percent of its interest in its Sudan operations to China National Petroleum Company (CNPC), Petronas and Sudapet and formed the Greater Nile Petroleum Operating Company (GNPOC). In March 1997, GNPOC agreed to build a pipeline that would transport oil from the Unity and Heglig fields to Port Sudan and oil tankers on the Red Sea. But these companies did not have the technical expertise or financial resources to take the oil development to an operational and revenue-generating stage.

In 1997, the United States government implemented sanctions against Sudan that prevented any US citizen from doing business with the Government of Sudan. This effectively ruled out American participation in Sudan's oil development and enabled the entry of non-US companies on favourable terms.

The first western company to enter this new phase of oil development in Sudan was Talisman Energy. Talisman is Canada's largest independent gas and oil producer with assets valued at \$8.4 billion. Talisman came to an agreement to buy all the outstanding shares of Arakis in August 1998, and in October 1998 that transaction was completed, giving Talisman ownership of Arakis' Sudan asset, its share in GNPOC. A 1,500-kilometer underground pipeline was laid to Khartoum, and the Red Sea, superseding Chevron's plan to take a shorter route to the Ethiopian border.

The largest of the on-stream oil concessions in Sudan is that operated by GNPOC, which owns the concession to develop and explore Blocks 1, 2 and 4. The partnership in GNPOC is divided among the China National Petroleum Company (CNPC) with a 40 percent interest, Petronas Carigali (the national petroleum company of Malaysia) with 30 percent, Talisman with 25 percent and Sudapet (the Sudan state petroleum company) with five percent.

The greater part of the concession is located in Western Upper Nile (referred to by the Government of Sudan as Unity State and by the SPDF as Liech State). Oil fields in the concession include Unity, Heglig, El Toor, Toma South, El Nar, Talih and Munga in Blocks 1 and 2. The Timsa and Bamboo oilfields in Block 4 are currently undergoing exploration. (Although most of these wells have been given Arab names by government officials and the oil companies have adopted these names, the wells are almost all in Nuer or Dinka territory and have Nuer or Dinka names. The Nuer and Dinka name of Heglig, as previously noted, is Wunthou; the Nuer name for Timsa is Nyang.)

The currently active oil concessions in Sudan thus lie principally in the South and mainly in the area of the Nuer in Western Upper Nile. The four Blocks where oil production or exploration is active are the contiguous Blocks 1,2,4 and 5a. All lie wholly or in part in Western Upper Nile, an area occupied for several centuries by Nuer and Dinka groups. Block 1 lies almost entirely within Western Upper Nile, ie in Nuer or Dinka territory, touching Kordofan at two points, in the northeast and in the northern extremity at Lake Abyad, where Southern Kordofan (Humr Baggara territory), Western Kordofan (Nuba) and Western Upper Nile meet. Half of Block 2 is in Upper Nile. The part of Block 4 currently in production (around Kaikang) is also in Western Upper Nile.

The pipeline, it may be noted, is routed from Block 1 by the shortest route to Block 2 (in the Humr Baggara territory of Western Kordofan), thus minimizing the distance it passes through non-Arab territory.

Talisman's entry into oil development in Sudan had a dramatic effect. By August 1999, less than a year after Talisman's arrival in Upper Nile, development of the Heglig and Unity fields had advanced considerably with the pipeline completed, a terminal built for oil tankers at Port Sudan and the first crude oil exported.

Talisman's 2000 annual report states that two-thirds of the company's capital budget of \$120 million was allocated to oil development projects, including pipeline and central processing facility upgrades to increase capacity from 190,000 barrels per day to 230,000. A total of 17 exploration and 25 development wells were planned for 2001. Current estimates of production from Sudanese oil fields are around 200,000 barrels per day.

Other western companies are now involved in oil development in Sudan, notably the Swedish company Lundin Oil, part of another consortium that operates a concession in Block 5a. Like Talisman and GNPOC, Lundin has invested substantial resources in construction projects in order to have access to its operational area. Lundin's wells, however, are exploratory and have yet to come on stream. Royal Dutch/Shell, which was a junior partner in Chevron's oil operations in Sudan, has a marketing agreement with GNPOC but is not involved in oil extraction. TotalFinaElf has the largest concession in the South, located mainly in Central Upper Nile, in Block 5, but is not currently active there.

The political and military situation that Talisman entered into in October 1998, as explained above, was complex and volatile. Despite the short-lived peace agreement that the Government of Sudan had recently concluded with the Nuer factions in the South, it was having no success against its principal military opposition, the SPLA. The war had recently spread from the South to areas of the border between Eritrea and the North where the SPLA was in alliance with Northern opposition parties. In 1998, the SPLA declared Talisman's operations to be a legitimate military target. A risk analysis covering the situation in Upper Nile at that time would have raised many questions that are unacknowledged in Talisman's corporate documentation.

Talisman's 2000 annual report does note an incident of sabotage on the pipeline in January 2000 that resulted in a minor production interruption for several days (p.34, annual report). The year 2001 has seen more serious attacks on oil installations in Upper Nile. These have been played down in official statements from the government and from Talisman, but seem to indicate a new phase in SPLA military tactics. The first substantial attack was on an exploratory drilling rig, the Tamur rig, in Block 4, on January 5, 2001. The rig was operated by China National Petroleum Company (CNPC), a member of the GNPOC consortium. The investigators were shown a Chinese machine gun said to have been captured in the raid:

This rig was in Block 4 near Rumrum. The well has been abandoned. We destroyed the containers that the company was using for the residents. The GoS was forcefully moving people from that area.

- SPLA Commander Peter Gatdet, Buoth, Western Upper Nile, 24 April 2001

Some weeks later, the SPLA claimed that on January 26, 2001, it had captured three wells near Bentiu. This statement was not confirmed. On June 8, 2001, however, after the research for this report had been completed, an SPLA unit commanded by Peter Gatdet attacked a government convoy on the road between Mayom and Wangkei. The attack was witnessed by a Swedish journalist, Peter Strandberg (Göteborgs-Posten, June 26, 2001). Talisman initially denied the SPLA report of the attack but subsequently acknowledged that there had been minimal damage.

In the morning of August 5, 2001, another SPLA unit attacked the oil installations at Heglig. The same day there was a separate attack on the government garrison at Wangkei. These attacks were initially denied by the government. A statement from Talisman asserted that the damage inflicted at Heglig had been minimal. The SPLA claimed that the rig, an electricity generating station and a helicopter stationed there were put out of action by the attack, an account confirmed by a source from a non-governmental organization with access to first-hand information:

Following two attacks on oil convoys, SPLM/A forces launched an attack on the heavily defended Heglig base, deep inside GoS territory, at 0400 local time on 4th August. SPLM/A claims to have fired modified battlefield missiles from a range of 1.5 km, damaging an oil storage tank and a helicopter on the ground, and destroying the main gas chamber feeding the natural gas fired power station, thus cutting electricity supplies to Bentiu, Rub Kona and much of the oil field, and completely halting the pumping of oil. GoS has publicly denied that there was any attack at all, although privately GoS sources suggest that SPLM/A forces were detected, engaged and dispersed long before they could reach the oil installations. SPLM/A admits that its forces were attacked by helicopter gunships en route to Heglig, giving enough warning time to evacuate its expatriate staff before the base was attacked. Talisman has admitted that there was a small attack and a few mortar bombs landed near the base, but claims that pumping of oil was stopped for a few hours only as a routine security precaution whilst engineers ascertained that there was no damage. There is as yet no independent evidence; Talisman has not invited journalists to verify its version of events.

The SPLA statement also contained a summary of SPLA strategy in the oil fields, asserting that it considered oil companies "legitimate military targets" (Press Release, August 9, 2001).

The SPLA claimed additionally to have captured boats belonging to El Salaam Petroleum Company on August 15, 2001, on the Bahr-el-Jebel river between Lake No and Zeraf Island (downriver from Bentiu), and to have attacked a government convoy in Panaru on August 9, 2001.

It is clear that the security of oil installations must be a matter of mounting concern, both to the Government of Sudan and to the companies in the GNPOC consortium and others. A typical oil well in Upper Nile has the appearance of a defensive installation. A Canadian consular official has given this description of a typical rig:

How vulnerable is a rig? It all depends where it is. Bamboo [name of a rig site] is considered a low-risk area. It is consequently protected by about 50 GoS troops who are housed in canvas tents outside the main "berm" (an eight-foot high defensive earth wall/ditch surrounding the rig, about 100m square). The surrounding scrub and woods are cleared to a perimeter of about 150m, with sentries posted at the four corners. Ideally the berm is high enough that the Portakabins and machinery within are immune from small-arms fire, and the entrance should be "S" shaped, not allowing fire directly inwards; at Rig 15, a standing rifleman could still have hit the cabins, and the entrance had not been finished and lay wide open. At the foot of the 140ft lattice-work rig, heavy machinery is arranged in such a way as to provide a safe haven in the middle, the "muster point"; drills are regularly held at which all employees are required to be at the muster point within 30 seconds. When in full swing, the rig employs about 50 persons, and it operates day and night, floodlit at night. Typically, it is at any given location for three to four weeks...

- Nicholas Coughlan, Canadian Consular Officer with the Department of Foreign Affairs and International Trade, Khartoum, e-mail correspondence dated March 1, 2001.

The report of the Consular Officer continues with an account of Peter Gatdet's January 2001 attack on the Tamur rig:

The highest risk area in the concession is a triangular area in the extreme South, bounded to the North by the Bahr el-Arab River. South of this river (but still inside the concession) is the fief of SPLA-loyal warlord Peter Gadiet [sic], and it was from this sanctuary that he launched his January attack on the Chinese-operated GNPOC Tamur Rig, about 30km North of the River. xxxxx commented to me that Tamur was the highest-risk location operated by GNPOC in the past several years, reflecting growing (excessive....) confidence; for this reason, it was assigned no less than 400 GoS troops with a couple of "technicals" (heavy machine guns mounted on 4 x 4s), the berm was built up to at least ten feet and the scrub cleared to 400m. xxxxx felt that although the rig crew were lucky that an RPG launched by the rebels failed to detonate, the rig was never in serious danger of being taken; indeed, GoS troops had performed surprisingly well. He admitted, however, that GNPOC had probably gone a bridge too far in attempting to drill at this location at this time (they nevertheless continued to drill to their target depth, following the attack; the well was dry.

Talisman's Corporate Social Responsibility Report states that the Government of Sudan military has primary responsibility for the security of oil development and the operations of GNPOC and other oil companies. The report states that in the context of an internal conflict, it is appropriate that the government has primary responsibility for security. The report also notes that the security efforts of the Sudanese military are coordinated with GNPOC security personnel and that four other groups are involved in providing security for oil development:

- Talisman's security department
- Government of Sudan petroleum security (a government organ with responsibility for coordination of the security strategy for the protection of oilfield assets)
- Personnel employed and contracted by one or other of the companies involved in oil development
- Government of Sudan national and internal security organizations.

Taban Deng Gai, Government of Sudan governor of Unity State and State Minister of Roads and Communications from 1997-99, told the investigators that Talisman had at the request of the Sudan Minister for Energy and Mining provided funds to the Ministry of Energy and Mining. Taban Deng said that each government ministry had been obliged to contribute funds to Sudan's army. He alleged that funds paid by Talisman to the Ministry of Energy and Mining through this arms length arrangement had facilitated military operations. This allegation and the fact that the Sudan military is responsible for the security of Talisman's oil operations raises questions about whether oil company security arrangements and payments to the government include or contribute to the purchase of, for example, helicopter gunships and other equipment or services used for military purposes. Details of security agreements between the Government of Sudan and the oil companies and any monetary or in kind payments by Talisman to the government for security or other purposes have not been made public or transparent. This situation also blurs the distinction between security provided for oil operations and military operations.

Securing oil operations, according to Talisman, means protecting oilfield staff and property and facilitating oil development. As stated in its Corporate Social Responsibility Report,

The safety and security of Talisman employees is a primary concern... We consider that we must protect our personnel and property without undermining the security of people in surrounding communities and especially without causing human rights violations... There is an inherent risk to those that work in the oil fields and to the property of those that operate in Sudan. Periodic threats are made by rebel forces and clearly indicate that both personnel and property are considered legitimate targets in the war against the Government of Sudan.

In Western Upper Nile, the protective strategy developed by the Government of Sudan military for oil company personnel and property differs according to the location of the assets it is protecting. In areas close to government garrisons where the government is firmly in control, there have been resettlement projects and some compensation of local people displaced to make way for oil development. Local people who have been

moved to facilitate oil development have, in certain cases and areas, been resettled and compensated by the government and GNPOC. The details of the compensation that has allegedly been made have not been made public. These are the cases that Talisman is referring to when it states that GNPOC has compensated people affected by its operations in the concession area.

This is not the situation, however, in other areas. Where the government is concerned about threats to oil production from rebel forces, and where local inhabitants are considered possible rebel supporters, they are neither resettled nor compensated. Rather, they are forcibly and violently dispossessed. Security for oil operations in those areas, as described, involves systematic attacks on civilian settlements.

Oil companies in partnership with the Government of Sudan are clearly implicated in this security policy. In order to extract oil from a contested region, one where the inhabitants are in critical respects considered by the government as a security risk, the oil companies become part of a counter-insurgency operation. Military operations against rebel forces in Western Upper Nile and military operations designed to clear and secure the oil fields are not distinct from one another. In fact, they are the same. Oil facilities and infrastructure are de facto military facilities, the oil fields are the most heavily militarized locations, oil company property and personnel are viewed as military targets by rebel forces and indigenous rural communities are considered security threats by forces protecting oil company property.

11.0 THE ROLE OF OIL COMPANIES IN THE WAR

It is not difficult to find victims of helicopter gunship attacks in settlements in Upper Nile. In all locations visited, the authors of this report were given detailed accounts of such attacks. The following testimonies are characteristic:

I had four children and my one child who was six years old was killed by a gunship in December 2000. The problem is that when the gunship sees people, children playing, people under a tree, it starts bombardment.

- Rebecca Nyiagok (Nuer woman displaced from Mankien, April 2001), Turalei, Tuic County, 24 April 2001

The gunships come from Heglig, whenever it comes, it opens the doors and starts shooting. We hear the noise of the gunship and know the direction it comes from, it takes off from Heglig.

- Manurop (Nuer man displaced from Mankien, April 2001) Maper, Tuic County, 18 April 2001

We left our home because of the lack of water and insecurity. The GoS installed military bases where we were living, burned villages and food stores. From gunship attacks there is random shooting at civilian targets including pregnant women. Two months ago, it killed two children and one man at Biem.

- Chief Yong Mayath of Kayago, Ruweng County, Padit, 22 April 2001

The SPLA Commissioner of Ruweng County was interviewed by the investigators at Padit airstrip, where craters from bombing raids and burned houses from ground attacks were readily visible. According to the Commissioner, the government's change in tactics and the use of new weapons by the Government of Sudan military coincides with the new phase of oil development.

Since new oil began in 1999, GoS tactics have changed the war of the government into a new phase. GoS is using oil revenues to support the war, buying new weapons and using weapons to take control. Seeing new things in the villages like long-range helicopter gunships, Antonovs and more weapons. The gunships hover over the area, see people and shoot people indiscriminately with rockets and machine guns. In 1999, gunships first started attacking here (three times in 1999). In 2001, so far there have been already four attacks. The gunships are always coming from Heglig.

- Stephen Mabek, Commissioner of Ruweng County, Padit, 23 April 2001

His view was echoed by the SPLA Commander of the area, George Athor:

The gunships in this new phase of war are something new to us. We have always thought that the small aircraft that hover were taking aerial photographs of our camps... We saw gunships for the first time in 1997, flying from Heglig to Pariang and targeting around the Pariang area. They are using the airstrips of Heglig, Rubkona and Bentiu.

- Commander George Athor Deng of Ruweng County, SPLA 120 Brigade, Padit, 22 April 2001

In March 2001, Nicholas Coughlan, the Canadian consular official, reported that for a month there had been two Hind helicopter gunships stationed at Unity Field. He was told that they had been flying sorties almost every day, taking on large amounts of ammunition and unloading none. Coughlan reported that there was a third Hind at Rubkona that had been put out of action by excessive dust in its air intake. By some accounts, he wrote, this was half the government's fleet of combat helicopters. In August 2001, the SPLA put a helicopter out of action at Heglig. It appears that this was an oil company helicopter used for oil operations and not a Government of Sudan helicopter gunship.

In the GNPOC concession, formal airstrips are located at Heglig town, Unity Field, Bentiu and Rubkona. Those airstrips were built and maintained by oil companies and are currently operated by GNPOC or, in the case of Rubkona, Lundin Oil. Talisman reported that the Heglig airstrip was closed for re-surfacing in December 2000. It was reopened in 2001. The concession agreements provide that the Government of Sudan is the legal owner of the airstrips and other oilfield infrastructure, so these are not under direct Talisman/GNPOC control. According to Talisman, the government maintains a military presence at Heglig for the protection of the oil fields, oil company employees and the company's investment. Company management maintains it is the company's position that airstrip use is restricted to defensive activities.

It may be noted that the Government of Sudan is the only warring party that has access to combat aircraft - helicopter gunships and Antonov cargo planes used as bombers - and that helicopter gunships, like other helicopters, do not require airstrips for take-off or landing.

This investigation has determined that at least two of the government's helicopter gunships have been based at oil facilities in Heglig. This is the center of Talisman's operations and the site of a government military garrison. Soldiers who had defected from the Government of Sudan army base at Heglig on April 25, 2001, told the investigators that they were ordered to attack locations in the rural areas of Pariang by the operational brigade commander at Heglig, a Lt. Colonel Haj, acting on a directive from Khartoum.

We have been given orders to go and fight in Pariang. To take control of the villages and loot cows so the community surrenders themselves to them...the convoy consisted of fifteen trucks, three tanks and a small Landcruiser mounted with a 0.7 machine gun and one water tank... There are two helicopter gunships. They are inside Heglig. They have been ordered to join the operation. And also Antonov are still bombing the area. They want to invade the area so it remains under their control then install oil wells around the area and establish military outposts.

- Mabek Chol, Padit, 22 April 2001

The soldiers stated that the artillery and helicopter gunships at Heglig had been brought in to defend the oil company workers. They reported that military equipment and explosives were in Heglig in a large military storage facility.

The soldiers described their contact with oil companies in Heglig as follows:

We were together when we were in Heglig. We were working together. There is a relation. First, all the vehicles that are used by the Government of Sudan – small cars – they are sharing them in operations sometimes.

- Chok Dhieu, Padit, 22 April 2001

This investigation received reports from a number of sources that the pilots of the gunships were "white" which could include Europeans, Asians or North Americans. Canadians were not specifically reported as having piloted the helicopter gunships. These gunship pilots were presumably mercenaries hired by the Sudan military. Estimates vary on the number of gunships operating in and around the GNPOC concession. Commander Peter Gatdet Yaka claims that the Government of Sudan has 37 gunships most of which were bought in 2000. He claims that forces under his control shot down three gunships in 2000 including two Hinds and one German model, and that the bodies of the crews of the gunships were destroyed. Other reports indicate that the government has eight gunships. Nicholas Coughlan, the Canadian consular official, suggests the total may be less.

Civilian victims of gunship attacks asserted to the investigators that gunships had flown sorties from Heglig to attack civilian settlements. Eyewitnesses from three different locations in and adjacent to the concession at Biem/Padit, Buoth and Maper/Turalei in Tuic County stated that they were attacked by gunships in non-government controlled areas of the concession throughout 2000 and 2001. They identified flight patterns of the attacking helicopters that indicated the gunships came from and returned to Heglig and other oil facilities in the concession.

In February 2000, the Harker mission reported, "flights clearly linked to the oil war had been a regular

feature of life at the Heglig airstrip” that is adjacent to the oil workers’ compound. The Harker team found that Canadian-chartered helicopters and fixed-wing aircraft shared the airstrip and its facilities with helicopter gunships and Antonov aircraft of the Government of Sudan. The report concluded that those aircraft “armed and re-fueled at Heglig and from there attacked civilians”. “This,” the report added, “is totally incontrovertible.”

The Harker report found that “...the gunships and Antonovs which have attacked villages south of the rivers (Bahr el Arab and Bahr el Ghazal) flew to their targets from the airstrip in the Talisman concession. This is known to the Nuer commanders defending those villages and is part of why they say they will target oil facilities.”

Talisman Energy is the only company involved in oil exploration in Sudan to have discussed its connection to military activity in the oil zone. In its Corporate Social Responsibility Report, Talisman conceded that in spite of the company’s stated position regarding the use of the Heglig airstrip and its “advocacy efforts” about the use of oil infrastructure for offensive military purposes, “there were at least four instances of non-defensive usage of the Heglig airstrip in 2000.” The company’s report acknowledged that the government used the airstrip for “reasons it could not determine” and that the company has “consistently requested that incidents of this kind do not occur”.

Talisman’s report does not provide any details about the means by which the company came to the conclusion that the airstrip had only on these occasions been used for “non-defensive” purposes. Nor does the report set out what exact facts led the company to determine that non-defensive use had occurred, what action was taken by Talisman to deal with the situation at the time or the details of the government’s response. The report states that the company has advocated for “improvements in the current airstrip monitoring processes to ensure better documentation regarding the number, type, client and operator of all aircraft using the facility.” GNPOC, the report states, planned to install a computerized monitoring system “before the airstrip reopens in 2001... to record all usage”. The monitoring system as described does not appear to permit the recording or inspection of contents and cargo of aircraft nor does it detail the type of usage. Since the airstrip reopened, there has been no announcement of this monitoring system becoming operational, or any indication that the records will be publicly available. Questions remain about how this monitoring system has worked or will work and its use and effectiveness.

It is clear that the incidence of military usage of the Heglig airstrip has been considerably higher in 2000 than previously and that it has continued. The pattern of military usage is one of indiscriminate attacks by gunships on civilians in villages in non-government controlled areas in and around the concession.

Talisman argues that the Government of Sudan’s use of the helicopter gunships based at oil company facilities has been strictly for “defensive” military purposes. It claims that “defensive” use of oil field infrastructure is appropriate. The company defines as defensive security support that which “assists forces legitimately deployed within the concession to protect property and personnel using a proportionate level of force”. Anything outside this definition is defined as “offensive”.

The characteristic use of helicopter gunships as described earlier in this report, where civilians, including women and children, are attacked and killed indiscriminately in their homes, cannot be held to fall under this definition of “defensive”. Under the international laws of armed conflict (also referred to as international humanitarian law) applicable in an internal conflict, all parties are required to observe the principles of distinction and proportionality. The principle of distinction prohibits the targeting of civilians. Parties must at all times distinguish between civilians and civilian objects and combatants and military targets and not make civilians the object of attack. The principle of proportionality requires that in attacking military objects, parties must not cause incidental loss of life or injury to civilians or damage to civilian property that is excessive in relation to the concrete and direct military advantage anticipated from the attack. The principle of proportionality is irrelevant where civilian settlements are intentionally targeted, as these are unlawful targets. Military actions with the primary purpose of spreading terror among the civilian population are prohibited. Attacks are defined, under international law, as acts of violence against the adversary, whether in offence or defence. There is no indication that either Talisman or GNPOC has made any attempt to properly

determine and assess whether any of the attacks on the villages by the government meet these criteria or are legal or illegal under international law.

Gunship attacks on civilians in Western Upper Nile by Government of Sudan forces, in the view of this investigation, have no legitimate military purpose and are violations of international laws of armed conflict. The attacks are indiscriminate because they do not have military targets. The possible presence of combatants among the civilian population is not sufficient to permit an attack against a whole group of civilians.

In addition, the distinction drawn by Talisman between defensive and offensive military use is not a distinction that is recognized in international law. This distinction is irrelevant to the question of attacks by the government of Sudan directed at civilians as these are strictly prohibited. This distinction cannot be used to justify or explain away attacks on civilians from oil company facilities.

In the current situation, oil companies together with the Government of Sudan place a higher priority on the security of company infrastructure and workers than on the security and human rights of Sudanese people in the oil region and compliance with the international laws of armed conflict.

11.1 TALISMAN'S RESPONSE

The Harker mission and Canadian government officials raised the issue of military use of oil company facilities with Talisman executives following the Harker team's return to Canada from Sudan in December 1999. At that time, Talisman's Chief Executive Officer, Jim Buckee, acknowledged that the Heglig airstrip had been used for military purposes in 1999. He indicated that when the issue was brought to the attention of Talisman executives, a verbal protest was made to the Sudanese authorities. Mr. Buckee reported that the gunships and bomber aircraft were then removed but returned and after a second protest, removed again.

In January 2000, Mr. Buckee stated that the company had received undertakings from the Government of Sudan that military use of the Heglig airstrip would be limited to defensive purposes. The company also reported that the contract between it and the government permits the use of oilfield facilities for military purposes. At the same time, the Government of Sudan publicly denied that the facilities were used for military purposes, although Talisman had admitted such use.

The Harker report noted, however, that credible reports indicated military use of the Heglig airstrip had been "more or less constant" since May 1999 and "interrupted not by protest but by such events as the appearance in the area of the team of financial analysts taken to Heglig by Talisman (in November 1999) and by our own [Harker team] arrival there in December 1999." It was noted that during the Harker team's visit to Heglig, the military aircraft was relocated to Muglad, a town north west of Heglig. It has also been reported recently that a gunship unloaded ammunition at the Heglig airstrip minutes before the Harker team arrived there in December 1999 (Christian Aid Report of March 2001, p. 25).

The Harker report commented on Talisman's response to evidence regarding military use of the Heglig airstrip as follows:

Talisman has yet to acknowledge that human rights violations have occurred which can be related to oil operations and it has, at various times, maintained that it would have found evidence of these were it to be found. On the other hand, it has particularly in the case of military use of the airstrip at Heglig, also sought to minimize its responsibility first by suggesting there is no situation, later that it did happen but did not come to executive attention immediately, and then that because of its legal circumstances, the company had no real control over events, but anyway the use was to be "defensive" only.

This appears to be the company's position today.

Rebel forces are also targeting civilians – oil company employees – when they attack oil installations. This situation is complicated because it is arguable under international law that in certain circumstances oil installations and facilities can constitute legitimate military objectives and targets. It can be argued that the oil facilities where oil company employees work and oil revenues from those facilities contribute effectively to the government's military capability and activity and that their total or partial destruction

or neutralization would offer a definite military advantage in the current circumstances. The oil facilities play an active part in military operations undertaken by the Government of Sudan against Nuer and Dinka settlements, providing storage and operational facilities for government military forces. By permitting government military use of oil facilities, or being unable to stop or control such use, oil companies are increasing the risks that oil company workers face.

In view of the many disputed statements issued by Talisman, and the complex questions of international law involved, it is clear that in this area, as others, specialist independent monitoring is required.

Talisman and its GNPOC partners have been unable to effectively monitor military use of oil installations, or to influence the government's conduct in this regard. And Talisman's advocacy efforts have had no discernible impact on government tactics. Any use at all by government forces of oil facilities therefore makes the oil companies complicit in the government's military activities and associated human rights abuses.

11.2 FORCED CONSCRIPTION AND UNDERAGE SOLDIERS

The investigation found that Southern Sudanese in their early teens had been forcibly conscripted in 2000 into the armed forces of the Government of Sudan and trained at a military camp near Heglig. These persons are among those forces currently providing security in areas of oil development. One of the underage soldiers interviewed by the investigators described his recruitment into, and defection from, the government armed forces:

There are some Arab soldiers. They caught us and put us in a vehicle and took us to a very isolated place. They sent us to Pariang to join operations. To kill our people. We refused. Then they came out from Pariang town and burned villages and looted food. We were surprised. That is why we escaped from there. They are oppressing people. That is why we refused and left. Instead of killing our people it is better to stay with them, so we are all killed together.

- Mabek Chol, Padit, 22 April 2001

This situation is a contravention of the International Convention on the Rights of the Child and other international legislation. Talisman has not indicated that it is aware of the government's use of underage soldiers to provide security for oil facilities nor has it stated that it has made representations about this situation to the Government of Sudan.

11.3 OIL REVENUES AND MILITARY EXPENDITURES

Military expenditures by the Government of Sudan have risen with increases in government revenue from oil. Oil revenues in Sudan increased dramatically from 15.7 billion Sudanese dinars (US\$61 million) in 1999 (four months of production) to an estimated 135.4 billion dinars (US\$596 million) in 2000 and a projected 153.2 billion dinars (US\$596 million) in 2001, according to IMF reports. Oil revenues thus increased by 875.7 per cent between 1999 and 2001.

On 12 August 2001, the secretary-general of the Ministry of Energy and Mining announced that Sudan planned to more than double oil production by the end of 2005. Hasan Muhammad Ali al-Tawm was quoted by SUNA, the government news agency, as saying the ministry intended to "intensify oil exploration work" and increase production from about 200,000 barrels per day to 450,000 barrels per day over the next four to five years. The same month, Sudan was granted observer status by OPEC, the organization of oil producing countries. Yet there is no indication in the rural areas of Western Upper Nile that the Government of Sudan is using oil revenues to assist the civilian population.

Oil revenues were projected to be 38.5 percent of Sudan's income in 2001, up from 7.6 percent of a lower 1999 income. Those revenues are fungible in the sense that they cannot be clearly isolated or separated out from other sources of government revenue. It is clear, however, that oil revenues received by the government are linked to increases in military expenditure. There is little evidence for increased expenditure on social services, but significant indications of an increase in defence spending, both in absolute terms and in

proportion to total expenditure. According to IMF reports from figures provided by the government, between 1999 and 2001, cash military expenditures (exclusive of domestic security expenditures) were projected to increase by 50 percent: in 1999, defence expenditures were 62.2 billion dinars (US\$242 million) and in 2001, were projected to be 93.2 billion dinars (US\$362.2 million), an increase of US\$120.6 million, or 50 per cent. These IMF figures are at variance with a statement made by Abdul Rahim Hamdi, Chair of the Government Committee for the Allocation of Oil Revenue, to Talisman financial analysts in November 1999 that military spending accounted for 15-18 per cent of the government budget and that defence spending would not increase.

As mentioned earlier in this report, the Government of Sudan recently established, with Chinese assistance, three assembly plants for small arms and ammunition at locations near Khartoum (at Kalakla and Chojeri) and on the road to Wad Medani (at Bageer). The factories were built by Chinese companies and use Chinese components. There are also credible reports of new missile technology being deployed by government forces in the South during 2001.

The presence of Western oil companies in Sudan appears to have had no influence on the government to deliver on an earlier commitment (also referred to earlier in this report) to use oil revenues for social development.

11.4 CANADIAN GOVERNMENT POLICY

There is little prospect of local regulation by Government of Sudan authorities of the activities of foreign oil companies. The willingness of a corporation's state of citizenship – Canada, in the case of Talisman – to exercise regulatory power is complicated by the presumed absence of any legal obligation toward extra-territorial non-citizens, i.e. Sudanese inhabitants of the oil zone. The voluntary International Code of Ethics for Canadian Business that Talisman has committed itself to is not legally binding. The result is a governance gap in Canada that permits Canadian companies operating outside their national jurisdiction to commit, aid or abet or be complicit in human rights violations with virtual impunity.

One effect of this is that Canada is not perceived as neutral, either by international organizations working in Sudan or by the Sudanese themselves. Canada is widely perceived as being on the side of the Government of Sudan and of Talisman. The consequences for Canadian foreign policy of this perception are damaging, given that the Sudanese government has one of the worst human rights records in the world.

11.5 TALISMAN'S COMMITMENTS UNDER THE INTERNATIONAL CODE OF ETHICS FOR CANADIAN BUSINESS

Talisman's management acknowledged in its Corporate Social Responsibility Report that, "in Sudan, where conflict and reported human rights violations are widespread, our responsibility is great." The company has stated that remaining in Sudan is the moral thing to do because its involvement in Sudan is improving life for the Sudanese people. Talisman also has stated that it respects the Universal Declaration of Human Rights and international humanitarian law.

Talisman officials argue that the company is pushing for positive change in Sudan and might be replaced by less helpful interests if it pulled out. "In Sudan," reads the President and CEO's statement in Talisman's Corporate Social Responsibility Report, "where conflict and reported human rights violations are widespread, I believe our responsibility is great. That is why we have undertaken advocacy efforts with our partners and with the Government of Sudan. In the past year I have personally raised the importance of upholding international standards for human rights and business conduct as well as the need for a more equitable distribution of the benefits of oil development to each of these groups."

"Talisman leaving does not stop oil production in Sudan," company representative David Mann has stated. "We play a role in trying to improve the situation there. We're building clinics and hospitals. Tens of thousands of southern Sudanese have benefited from clean drinking water, education and medicine directly because of Talisman being there." Jim Buckee, Talisman's CEO, has stated that the Sudanese Finance

Minister Abdel Rahim Hamdi advised him that 50 percent of oil revenues have been used to repay Sudan's foreign debt and the remainder the salaries of government employees and development projects (this is not confirmed by IMF reports).

But there is no evidence from independent sources that Talisman has had any modifying effect on the government of Sudan. According to Taban Deng Gai, former Government of Sudan governor of Unity State (Western Upper Nile) and many other representatives of the people of the area. Talisman should withdraw from Sudan if it cannot bring effective pressure to bear on the government to moderate human rights abuse and the use of oil revenues to pursue the military option.

Is it realistic to suggest that Talisman has leverage with the Government of Sudan? It is arguable that it was Talisman's arrival in Sudan that made oil production possible. The company's access to significant levels of capital, its global experience and its mastery of advanced technologies of oil exploration and extraction were the key to the rapidity with which oil from the wells in Western Upper Nile came on stream. It has been estimated that if Talisman withdrew from the consortium, the shortfall in technical expertise would cause production to drop by 30 percent. It is clear, moreover, that the government wants Talisman to stay. Despite its claims to have influence with the Government of Sudan and to be responsible, Talisman has announced no target date for the observance of "international standards for human rights" in Sudan or for an "equitable distribution of the benefits of oil development". It has not said what its response would be if these objectives are not achieved, nor has it proposed any independent, field-based regime that might monitor progress towards such a goal.

11.6 MILITARY USE OF OIL FACILITIES AND SECURITY FOR OIL DEVELOPMENT

Can the oil companies ensure that they are not directly or indirectly supporting the military activities that might or do result in violations of international humanitarian and human rights law? Talisman has denied that the government uses GNPOC airstrips at Heglig and Unity for launching attacks on the SPLA, but the company's position is that it is legitimate for the armed forces to use airstrips to safeguard the region from attack.

The very presence of the government garrisons, however, is a consequence of the oil. The establishment of garrisons in Western Upper Nile corresponds to the expansion of oil development. Wangkei, for instance, is the site of a new garrison and this is clearly associated with the westward extension of oil development in Block 1. Talisman facilitated the sending of four barges to Wangkei during the establishment of the garrison by providing fuel and rations.

11.7 FORCED DISPLACEMENT FROM THE OIL FIELDS AND GROWTH OF TOWNS IN THE CONCESSION

Talisman refuses to accept that forced displacement has been carried out to secure oil development. The company continues to maintain this position in view of overwhelming evidence of displacement and associated human rights violations connected to oil development that have been consistently documented by human rights organizations, United Nations Special Rapporteurs on Human Rights in Sudan, journalists, staff of aid agencies and representatives of donor governments. Talisman's claim to be raising human rights issues with the government is vitiated therefore by its refusal to even acknowledge the occurrence of the most fundamental of the many abuses of human rights in the area.

11.8 COMMUNITY DEVELOPMENT

Talisman has built medical facilities and schools and sunk water wells at some locations in the concession. Talisman claims to have spent approximately CAD\$1 million on 15 development projects, mainly in the North. This is far less than one per cent of Talisman's profits of US\$1,816 million in 2000, which includes US\$183.6 million from its Sudan operations. Reports from inhabitants of the concession, persons

displaced from the concession and aid workers indicate that these medical facilities and water wells are not necessarily accessible to the ordinary inhabitants of the area. They are, moreover, located in garrison towns, rather than in rural areas. In this sense, the facilities that Talisman has established function as a way station in forced migration from the economically productive rural areas, backing up the government's military displacement campaign.

Talisman claims to have established a human rights monitoring regime for the concession. But this regime conforms to no recognized international standards. It is not independent or expert and it has not produced a public report. It is not clear whether there has been any monitoring by Talisman's human rights monitor of GNPOC's expansion activities in 2000 and 2001 into Block 4 (Kaikang) of the concession.

12.0 CONCLUSIONS

Since the completion of the oil pipeline from Western Upper Nile in 1999, Sudan has become a net oil exporter. Revenue from the oil has freed the government from previous financial constraints, allowing its arms budget to increase substantially. There has been a concomitant intensification of government and government supported attacks on the inhabitants of oil areas outside government control. From the government point of view, the inhabitants of the area are generally regarded not as citizens but as a security risk, as potential or actual supporters of rebel movements, to be forcibly moved off the land that they inhabit in order to facilitate oil development on the government's terms.

Oil has increased the need of the Government of Sudan to secure and control territory, including roads and waterways required for oil development. This has led to an increase both in support for pro-government militias and in direct government military action. New oil exploration, drilling and production in Western Upper Nile are resulting in a further increase of military action. The integration of oil development with the government's war aims is illustrated by the presence of the Chinese state oil corporation as a partner in GNPOC and the establishment of Chinese weapons assembly factories in and near Khartoum. Other oil companies, notably Talisman, are directly and indirectly assisting government military activity by allowing the government use of oil infrastructure and facilities such as airstrips, roads and vehicles for military purposes.

The question in Western Upper Nile is not the legitimacy or otherwise of the government or one or other group of southern rebels. The question is whether Sudan's natural resources are going to bring economic benefits to the inhabitants of the country, particularly people of the oil area, or whether they are going to be used, as at present, to fuel the conflict and perpetuate the long misery of war.

Currently, government or government-sponsored military action compels many of the inhabitants of rural areas in Western Upper Nile to flee their homes and move away from the land that sustains them. The continuing process of displacement has repeatedly interrupted the agricultural cycle in Western Upper Nile and reduced livestock numbers, bringing some inhabitants close to starvation. Access to the area by relief agencies has been reduced by government flight denials and by the danger of aerial bombardment from government aircraft. In government areas also, access by displaced people to available food relief is limited.

As noted above, conflict between the two rebel movements operating in Western Upper Nile and between those rebel movements and government-backed militias has continued to be an important cause of the violent disruption of the lives of the civilian inhabitants of the area. But direct military action by government forces, in conjunction with pro-government militias, is now a key factor in the forced displacement of people in Western Upper Nile.

Forced displacement of this kind is a violation of international human rights and humanitarian law. Displacement from the oil region has been accompanied by other grave and systematic human rights violations including violations of international humanitarian law carried out by government forces, security forces and militias. None of these violations has been addressed or remedied through Sudan's legal system or through other state, military or international mechanisms of accountability. International pressures through resolutions of the United Nations General Assembly, the Human Rights Committee and recommendations of several UN Special Rapporteurs have had no measurable impact in halting violations of the conduct of the parties. In the war in Sudan, impunity has been and continues to be the rule. No independent, impartial expert monitoring body has been permitted to carry out systematic and continuous monitoring of the human rights situation in the field or of any aspect of oil development.

In these circumstances, a company operating in the war zone of Sudan cannot be neutral. Every aspect of its operation benefits one side – the government side – in a conflict where human rights violations are the norm. In these conditions, all aspects of oil development contribute to the worsening situation for the inhabitants of Upper Nile.

To remedy this situation would require a drastic alteration in the approach of foreign companies operating in Sudan and a systematic change in the conditions under which they operate. Some oil companies have recognised this. In May 2001, Royal Dutch Shell announced that it would endeavor to prevent aviation fuel

it supplied from being used by Government of Sudan aircraft on bombing raids. In August 2001, South Africa's Soekor, which had been considering involvement in Sudan, acknowledged that oil fueled the civil war. Soekor announced that it was "not about to enter into any agreement with the Sudanese Government allowing the company to conduct oil prospecting." The statement continued, "We share the concerns of the Southern African Catholic Bishops Conference that an insensitive pursuit of oil interests in the Sudan might contribute to the escalation of the civil war..."

For Talisman, as the company most prominent in oil development in Sudan, it is necessary to confront the true effect of its presence on the welfare of the inhabitants of Western Upper Nile. Talisman and its shareholders need to give very serious consideration to the following questions. Do the conditions for the equitable distribution of oil revenues exist in the absence of a just resolution of the war and the issues that gave rise to it? And is such a just resolution assisted by continued oil extraction and the concomitant increase in available government revenue? On the evidence of this investigation and others, the answer to both these questions is no.

Talisman has shown little sign that it takes these questions seriously. In spite of the extraordinary nature of the situation in Western Upper Nile, it has never carried out any impact assessment of its operations or a human rights investigation of any substance. As discussed earlier in this report, the Corporate Social Responsibility Report prepared by Talisman, parts of which were verified by PricewaterhouseCoopers, cannot be considered as a report or product of a human rights investigation conducted by independent human rights experts according to well-accepted and recognized standards of human rights investigation and practice. Talisman has made no serious attempt to consult the full range of opinion of inhabitants of the oil concession, either inside or outside government-controlled areas. It did this neither when it began operations in 1998, nor before expanding operations in 2000. Yet the oil companies operating in Upper Nile would be hard put to find a single inhabitant of the area outside the government-controlled towns who was in favour of their presence, whether or not that person was a supporter of any of the rebel groups. The oil companies would also be hard put to find any academic specialist or aid worker experienced in the area with anything positive to say about the company's presence in Upper Nile.

Talisman and other foreign companies must confront what their presence means in Sudan. They need to consult with the full range of interested parties, not just the government. They need to establish transparency in their own operations. And they need to reconsider their ethical obligations as companies that profit from an unjust war on the civilian population in their area of operation, a war in which human rights violations are ubiquitous. In this report, Talisman is singled out as the largest and technically most important of the western companies involved in the oil industry in Sudan. But any strictures on its operations also apply to other western and non-western companies already present – and to those considering active engagement in Sudan, such as TotalFinaElf. The fate of the people of Western Upper Nile will not be determined by a single company, but the standards of accountability that are applied to companies operating in wars may well be affected by what happens to Talisman in Sudan. It would be possible for Talisman, even at this stage, to set an example by radically reassessing its ethical obligations, stating its minimal conditions for remaining in Sudan and announcing a timetable for their fulfilment and independent verification. These would include the establishment of an independent monitoring regime as described below.

This report concludes that in order to establish the conditions for an informed and measured international response to human rights violations in Sudan, there is an urgent necessity to establish long-term, international, independent, large-scale, field-based monitoring of the effects of the war and the contribution to it of oil development. Such a programme would need to monitor the actions both of the government and non-government forces and the abuse of human rights in the conflict overall. It would provide a real-time response to incidents of war and offer the possibility of preventing and/or providing early warning of violations. The monitors would require free access to – and freedom of movement within – both government-controlled and non-government-controlled areas. The lack of such information puts those seeking a just political solution to the conflict at a severe disadvantage in dealing with the government and other armed groups, making it difficult to verify claims by any of the parties.

In the present circumstances, the presence of foreign oil companies in Sudan is undoubtedly damaging to the people of the oil areas. The companies effectively assist the government war effort, exacerbate the suffering of

the inhabitants and make the prospect of peace more distant. Only a radical change in their relation to the Government of Sudan - and a radical change in government policy resulting in rapid steps towards a just peace - could provide any justification for the companies' continued presence. As the major providers of infrastructure and – by their own account – social services in Western Upper Nile, the onus is on them to show that they are behaving as corporate citizens rather than mercenaries. This applies particularly to companies that espouse human rights and good corporate practice as Talisman does. Support for a monitoring regime as outlined above should be one of the preconditions for the continued involvement of foreign commercial enterprises in Upper Nile. Without it, mediation efforts in the war are compromised by a lack of accurate information, and the self-proclaimed attempts by oil companies and government agencies to mitigate the damaging impacts of oil development cannot be properly measured or assessed.

As the oil company most vocal in its claims for the benefits of oil development, Talisman, despite its vaunted commitment to human rights and good neighbourliness in its area of operation, has neither instituted nor encouraged the establishment of a long-term, independent, expert monitoring regime. Without this – and without a dramatic change in the relation between oil companies and the government, as well as concerted diplomatic effort involving coordinated action by donor countries to bring about a cessation of hostilities – oil development in Sudan can only continue to contribute to human rights violations and progressive immiseration of the inhabitants of their area of operation.

APPENDIX A

Letter from Jim Buckee, The Economist, May 19th 2001 and reply by John Ryle, The Economist, June 9th 2001

SIR - Your article on Sudan ("War, famine and oil in Sudan", April 14th) draws needed attention to the plight of those forced to flee the fighting that has plagued the country for nearly 50 years. Unfortunately, you are wrong about the location of both the fighting and the oilfields, creating the impression that people are being forced to leave areas where we produce oil. In fact, since we invested in Sudan in 1999, there have been large population increases in our concession area as a result of economic development, community improvements and protection from warring factions.

Your map shows Sudan's "main oilfields" extending far south of Bentiu, the capital of Unity state. Bentiu's true location is outside the extreme southern border of Sudan's main oilfields—the concession operated by the Greater Nile Petroleum Operating Company in which we own a 25% interest. You create the false impression that fighting and displacement of civilians is taking place in our areas of operation. It is because there is no fighting in these areas that we have been able to build roads, provide electricity and new water supplies, and build a hospital and clinics that give free medical care to hundreds of people each day.

Jim Buckee
President, Talisman Energy
Calgary

SIR - Jim Buckee (19 May) asserts that there is no fighting or displacement of civilians in the Sudan oil concession area where his company, Talisman Energy, is operating. This is untrue.

Last month I visited Talisman's concession area in Western Upper Nile on behalf of a number of Canadian and British non-government organizations. Neither Talisman nor the Sudan government cooperated in this investigation; I traveled, however, with a colleague, an international lawyer, to the greater part of the area that lies outside government control. Here we heard numerous eyewitness accounts of attacks on civilian settlements by government bomber aircraft and helicopter gunships, by government troops and by pro-government militias. Several of the gunships operate from oil facilities at Heglig built and maintained by the consortium of which Talisman is part. This was acknowledged two months ago in Talisman's own compliance report (www.talisman-energy.com), a fact that seems to have slipped Mr Buckee's mind.

Mr Buckee claims that there has been a population increase in Talisman's area of operation. He makes much of satellite images that are said to show a growth in size of government garrison towns. But any expansion of these towns and military posts is not a sign of prosperity. It is the opposite: further evidence of the violent displacement of civilians from rural areas (the displacement that Mr Buckee says is not happening). This is presumably why malnutrition rates in government-controlled Bentiu town, as reported by the UN World Food Programme last month, are among the highest in Sudan.

It is the government of Sudan, as much as any rebel faction, that is responsible for forced displacement. This is clear from reports by Human Rights Watch, Amnesty International, Christian Aid, Sudan Update, the Canadian Government and the UN Rapporteur on Human Rights. The government of Sudan makes no secret of the fact that it is using oil revenues to build arms factories.

That Jim Buckee has become the government's apologist despite this weight of evidence is shameful. Talisman's actions stand in contrast to those of another oil company, Royal Dutch Shell, which last week announced, albeit belatedly, that it would endeavour to prevent aviation fuel it supplied from being used by Sudan government aircraft on bombing raids. If Shell can deliver on this commitment it will be a hopeful sign.

John Ryle

APPENDIX B

Address at launch of European Campaign for Peace before Oil in Sudan by John Ryle, 29 May 2001

Ladies, Gentlemen, Your Excellency [the Ambassador of Sudan]

I'd like to thank the committee of the European campaign for inviting me to speak here today. As Egbert Wesselink has mentioned I returned recently from a trip to Sudan with a Canadian colleague, Georgette Gagnon. Our task was to investigate links between oil development, conflict and displacement in Upper Nile. The investigation was sponsored by the Sudan Interagency Reference Group of Canada, a group of non-governmental organizations concerned with Sudan. This group, I should stress, has no political or religious agenda. Georgette Gagnon and myself are independent consultants, both of us with previous experience of Sudan.

Georgette Gagnon's expertise is in international law. She was a member of the Harker mission which reported last year on the situation in the oil fields for the Government of Canada. I am an anthropologist by training. I did fieldwork in the Dinka area of South Sudan before the war and since then have worked as a consultant in Northern and Southern Sudan for international organizations including Unicef, Save The Children Fund and ECHO (the European Community Humanitarian Office.) I first visited Upper Nile in 1976. I have returned at intervals ever since.

So much for our bona fides. In our report we make three claims relevant to this campaign. They are the following:

- that attacks of all kinds and by all parties on settlements in Western Upper Nile have intensified.
- that government use of helicopter gunships has increased.
- that oil development facilities have been used by the government to launch aerial attacks.

On our trip we visited four places inside Sudan:

- Wunrok and Maper. These are contiguous centers in the SPLA-controlled Tuic Dinka area of Bahr-el-Ghazal, near the western border of Upper Nile, where some Nuer displaced from the oil fields have gathered.
- Buoth, near Mankien, in Bul Nuer territory in the far west of Western Upper Nile, an area which is currently controlled by Peter Gatdet, a Nuer commander who was formerly part of a pro-government militia but is now aligned with the SPLA.
- Nimne, in the Jikany Nuer area east of Bentiu, currently controlled by a commander aligned with Riek Machar's SPDF.
- Padit, in the Pariang area north of Bentiu, a Ruweng Dinka enclave under the control of an SPLA commander, George Athor.

I am giving you details of these locations because the situation in Upper Nile is complex and no one can claim to understand everything. Most notably, we did not visit government-controlled areas. This was not for want of trying. It was because our visa applications were declined. Both Georgette Gagnon and myself have worked in government areas in the past and we would still be more than willing to go there if visas were to be forthcoming. We would be keen to see the other side of the story. It should be noted, though, that most of Upper Nile is not under Sudan government control. Also that, in our experience as researchers who have worked in both government and non-government areas, the difficulties of obtaining free access and accurate information are considerably greater in government-controlled areas than elsewhere.

Meanwhile our preliminary report is a public document and is open to criticism. It has been widely distributed

already – and copies are available here today. As far as I know there has been no published response, either from the Government or from any of the oil companies involved.

You will be aware that the Government of Sudan a few days ago declared a unilateral cessation of air strikes in the South and the Nuba Mountains. This is a welcome development that requires careful monitoring. It is reported that there have been air strikes against SPLA-controlled areas of the Nuba Mountains since the government announcement – the following day, in fact. [Large-scale bombing in all areas of the South resumed some weeks later, after an SPLA land offensive in Bahr-el-Ghazal.]

One of the accusations against Talisman is that it has allowed the government to use GNPOC facilities at Heglig oil field for helicopter gunship attacks on settlements in the area. Four such instances during 2000 were acknowledged in Talisman's recent compliance report. In this report Talisman suggests that the practice has ceased. But we believe that it has not. In Pariang district and in Buoth we heard eyewitness descriptions of a number of helicopter gunship attacks in the first few months of this year. In the case of Pariang these eyewitnesses said that the gunships came from Haglig. We also interviewed recent Sudan army deserters from Heglig who confirmed that government forces were still using the oil facilities there.

You will be aware that the SPLA and the SPDF have recently issued a declaration of unity. We have yet to see the results of this on the ground. This, too, needs to be monitored. At the time of our visit there was already a de facto ceasefire between these two groups. But the results of conflict between them some months back were still evident in reports of burned villages in Western Upper Nile, south of the areas we visited, and in considerable numbers of displaced people in Lakes Province of Bahr-el-Ghazal.

When we talk of "scorched earth" in Upper Nile we must bear in mind that this has been the strategy on all sides, not just on the government side. But when apologists for the Government of Sudan ascribe displacement in Upper Nile to "faction fighting" they leave two important factors out of account. First, the government's material support for certain of these factions and, second, the growing incidence of direct government military action against settlements in the area.

There are, broadly speaking, six forces apart from the government itself operating in Western Upper Nile.

First, the Baggara Arab militias from the north, supplied by the government since the early 1980s.

Second, the official pro-government militia of Paulino Matiep, which currently operates out of the government garrison in Mayom.

Third, the SPDF forces of Peter Paar, which since the breakdown of the April 1997 peace agreement between the SSIM (the precursor of the SPDF) have had no official connection with Khartoum, but which have received military supplies from the government and may still do so.

Fourth, other SPDF commanders currently inactive.

Fifth, the forces of Peter Gatdet, a former officer in Paulino Matiep's militia, now aligned with the SPLA.

Sixth, an SPLA unit in Ruweng County.

All these forces have, at one time or another received arms and ammunition from the government, though in the case of Peter Gatdet it may be assumed that he no longer does so. In Buoth Commander Gatdet showed us arms and ammunition that he had brought with him when he defected from Paulino Matiep. These included AK-47s and PKM machine guns and bullets that had been assembled in one of three new Chinese built factories near Khartoum. Commander Gatdet described visiting these factories himself to collect these supplies. These factories are of recent construction and it is reasonable to associate their establishment and the increased flow of arms and ammunition to various parties in the war with the revenues from oil development.

In conclusion, let me tell you a more personal story.

In Buoth I met with an earlier acquaintance of mine, Chief Tunguar Kueiduong, who has been the Chief of the Leek Nuer for many years. Six years ago I crossed Western Upper Nile on foot with a son of the area, my friend Bapiny Tim Chol; Chief Tunguar's household was one of the places we stayed the night. On that

occasion Tunguar explained how he and his people had been displaced from their homes north of the Bahr-el-Ghazal (Nam) River in the early 1980s, at the beginning of the war, by Baggara Arab Murahaleen militias armed by the government. They had resettled in a contiguous Leek area south of the river.

The Northern Leek area, round Wangkei, and the northern Bul area round Mayom, form one of the current areas of expansion in Block 4 of the oil concession area. A new road is visible from the air leading there from Bentiu. These are areas that the CEO of Talisman Oil has described as No Man's Land. It is important to be aware that these places have been Nuer territory for hundreds of years and that such areas are integral to the rural economy of the Nuer (and in Dinka areas, of the Dinka). These indigenous peoples live by agriculture, livestock husbandry and fishing. To survive they need to be able to move - from dry season grazing and fishing grounds to village agricultural areas and back. This is exactly what the fighting in Upper Nile is denying them. It threatens their fundamental means of survival. Their crops and villages are burned; their livestock is looted; the land is not safe for them to move in. This strategy has become a recurrent, deliberate feature of the war in Sudan. It is the primary cause of displacement and destitution among civilians.

When I met Chief Tunguar last month in Buoth he explained that since my visit in 1994 the Leek people had been displaced again, this time by the pro-government Nuer militia of Paulino Matiep, operating out of the government garrison at Mayom. These attacks had been followed by government helicopter gunship attacks on Mankien, in the territory where the Leek had taken refuge.

I'd like to leave you with Tunguar's words to me.

What he said was this.

We know that oil can bring us development, but we also know that it cannot do so until there is peace. There must be peace first. We need peace before oil. And we rely on you, the foreigners, to take these words back to where you come from.

Thank you.

APPENDIX C

Preliminary Statement of Investigation into Oil Development, Conflict and Displacement in Western Upper Nile, Sudan, June 2001

SUMMARY

A team consisting of a Canadian and a British investigator has documented an intensification of armed attacks on civilians in Sudan's contested oil region in Western Upper Nile during the past year. These attacks have been carried out by government forces and pro-government militias and also by rebel forces. A significant new development is a higher number of direct attacks on civilians by the armed forces of the Government of Sudan. In particular, the team found that government forces launched increasing numbers of helicopter gunship attacks on civilian settlements in or near the operational area of the oil consortium that includes Canada's Talisman Energy. Some of these helicopters operate from facilities built, maintained and used by the oil consortium. These attacks appear to be part of a renewed Sudan government strategy to displace the indigenous non-Arab rural population from rural areas of the oil region in order to clear and secure territory for oil development.

BACKGROUND

The largest of the on-stream oil concessions in Sudan is operated by the Greater Nile Petroleum Operating Company Limited (GNPOC), a consortium in which the Canadian company Talisman Energy is a partner with a 25% interest. The GNPOC/Talisman concession includes Blocks 1, 2 and 4. The greater part of this concession is located in Southern Sudan, in Western Upper Nile (referred to by the Government of Sudan as Unity State and by a rebel movement controlling many of its rural areas as Liech State).

Most of the rural areas in the concession have been outside the control of the government since the start of the current civil war in 1983. Those areas have been administered successively by two rebel movements, the Sudan Peoples' Liberation Movement/Army (SPLM/A) and the former South Sudan Independence Movement/Army (SSIM/A). Today, control of the non-government areas of the concession is divided between the SPLM/A and the Sudan Peoples' Democratic Front/Defence Forces (SPDF), a successor movement to the SSIM/A.

The economy of Western Upper Nile is based on livestock herding, agriculture and fishing. The majority of the indigenous inhabitants are from non-Arab, non-Muslim ethnic groups - the Nuer and the Dinka. It is an economy based on seasonal movement back and forth between permanent villages and cattle camps. The few towns in the area function as administrative posts for the Sudan government and as market centres. During most of the past fifteen years in Western Upper Nile, the armed forces of the government have been confined to garrison towns and to roads leading from those towns to the north. The government's military strategy during the greater part of this period has been to support proxy forces - Baggara Arab militias from the north and pro-government Nuer groups within the south. These militias have been encouraged to attack and loot Nuer and Dinka settlements and cattle camps, driving their inhabitants further south or into government garrison towns or to the government-controlled north of the country.

For a short period in the late 1990s, a peace agreement between the Government of Sudan and the SSIM/A allowed for the extension of government authority into some of the rural areas of the concession, enabling expansion of oil development and completion of a pipeline from the oil fields north to Port Sudan. The collapse of this peace agreement in 1999 and the return of SSIM/A forces to their bases in non-government areas prompted an alteration in the Sudan government's military strategy. The new strategy in Western Upper Nile is both more violent and more territorially focused, involving coordinated attacks on civilian settlements in which aerial bombardment and raids by helicopter gunships are followed by ground attacks from government-backed militias and government troops. These ground forces burn villages and crops, loot livestock and kill and abduct men, women and children.

THE CURRENT SITUATION

Following the finding by the Harker mission in December 1999 that helicopter gunships and Antonov bombers of the Government of Sudan armed and re-fueled at Heglig and from there attacked civilians, Talisman acknowledged that the Heglig airstrip had been used for military purposes. Heglig is a government town that is the center of Talisman's oil operations in Sudan. In January 2000, the company stated that it had received undertakings from the Government of Sudan that military use of the Heglig airstrip would be limited to defensive purposes. However, in its corporate social responsibility report released in April 2001, Talisman conceded that in spite of its "advocacy efforts" regarding the use of oil infrastructure for offensive military purposes, "there were at least four instances of non-defensive usage of the Heglig airstrip in 2000."

The new investigation concludes that military usage has been considerably higher - and that it continues. The pattern of use is one of indiscriminate attacks and intentional targeting by gunships of civilians in villages in non-government controlled areas in and around the concession. (The Government of Sudan is the only warring party that has access to combat aircraft, helicopter gunships and bombers.)

The investigation has determined that at least two of the government's helicopter gunships are based at oil facilities in Heglig. Defecting soldiers from the Government of Sudan army base in Heglig and civilian victims of gunship attacks testified to investigators that gunships have flown regular sorties from Heglig to attack civilian settlements.

The investigators obtained eyewitness accounts from people attacked by gunships in non-government controlled areas of the concession throughout 2000 and 2001. Eyewitnesses identified flight patterns of the attacking helicopters that indicated they came from and returned to Heglig and other oil fields in the concession.

The incidence of other human rights violations in and around the concession escalated in 2000 and early 2001. The investigation documented a wide range of abuses connected with forced displacement of people. Defecting soldiers from the Sudan government's military base at Heglig testified that they had been ordered to participate in ground attacks on non-government controlled villages around Pariang, a government-controlled town in the concession, in order to force the inhabitants out of the area. The soldiers testified that they had been instructed to kill civilians and any persons not loyal to the Government of Sudan. This, they stated, was for the purpose of securing the oil fields for development.

There were also incidents of attacks on settlements by armed groups aligned with the SPLA/M and by those aligned with the SPDF (formerly the SSIM/A). There were three recorded attacks in 2000 and 2001 on oil installations or infrastructure by rebel forces in Western Upper Nile.

In 2000 and 2001, Talisman expanded operations in Block 4 of the concession in Kaikang. This is an area inhabited until the mid-1980s by indigenous agro-pastoralists from the Bul tribe, or section, of the Nuer people. They were driven from their villages soon after the beginning of the war in 1983 by pro-government Baggara Arab militias from Northern Sudan and took refuge in the southern part of their territory (south of the river Bahr-el-Arab or Col Pi). In the late 1980s, following local agreements between the Nuer and the Baggara Arabs, some Bul settlements north of the river were re-established.

The investigators received reports that Talisman's expansion activities in Kaikang were preceded in 2000 by forced displacement of the inhabitants of seven villages in the Kaikang area by government-backed militias and by the bombing of villages in non-government controlled areas close to the expansion site. Since the Government of Sudan declined to issue visas to the investigators, it was not possible to visit the Kaikang area to confirm or disconfirm those reports.

The investigators found no evidence that significant economic or other benefits from oil development are accruing to indigenous communities in Western Upper Nile and no sign that the Government of Sudan is using oil revenues to assist the civilian population in Talisman's concession, or in Southern Sudan in general. It appears, rather, that oil revenues received by the government are linked to increases in military expenditure. For example, the Government of Sudan recently established, with Chinese assistance, three new factories for the manufacture of arms and ammunition near Khartoum.

The investigation found that Southern Sudanese in their early teens have been forcibly conscripted into the armed forces of the Government of Sudan and trained at a military camp near Heglig, and are currently providing security in areas of oil development.

CONCLUSION

The evidence suggests that indigenous, non-Arab people living in rural areas in the GNPOC/Talisman Energy concession (and the people of Western Upper Nile in general) are regarded by the Sudan government and its armed forces as an obstacle to further oil development. They are seen not as citizens but as a security risk, potential supporters of rebel movements, to be forcibly moved off the land that they inhabit to facilitate oil development.

Inhabitants of rural areas are compelled by government military action to flee their homes, to move to non-government controlled areas further south or deeper in the swampland (both within and outside the concession), or else into government-controlled towns in the concession (primarily Bentiu and Pariang) and Northern Sudan. The continuing process of displacement has repeatedly interrupted the agricultural cycle in Western Upper Nile and reduced livestock numbers, bringing the area's inhabitants close to starvation. Operation Lifeline Sudan (OLS), the United Nations-led emergency relief operation, has a tri-partite agreement with government and rebel movements to operate in both government and non-government controlled areas of Southern Sudan. But OLS access to airstrips in rebel-controlled areas has been reduced in the past year by government flight denials and by the danger of aerial bombardment from government aircraft. In government areas, access by displaced people to available food relief is limited: in April 2001, the United Nations' World Food Program reported that malnutrition rates in government-controlled Bentiu town were among the highest in Southern Sudan.

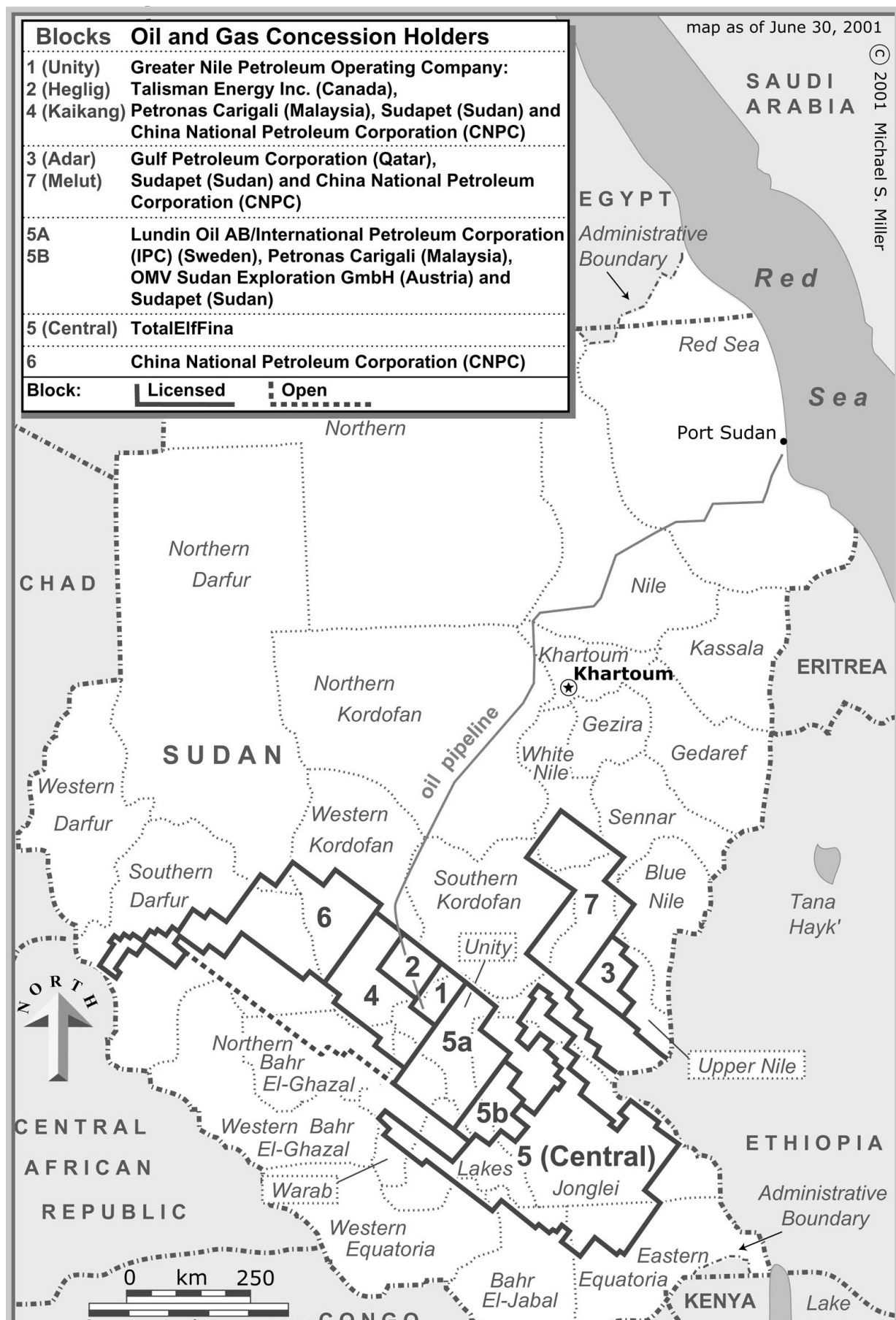
Conflict between the two rebel movements operating in Western Upper Nile and between those rebel movements and government-backed militias has continued to be an important cause of disruption of the lives of the civilian inhabitants of the area. But direct military action by government forces, in conjunction with pro-government militias, is now a key factor in the forced displacement of people in Western Upper Nile.

The conclusions of this investigation are the result of a series of visits to locations in non-government controlled areas in the concession and in adjacent areas of Western Upper Nile. The investigators conducted extensive interviews with local inhabitants and displaced persons in those areas. Over half of Talisman's concession area is outside the control of the Sudan government and the majority of the concession's inhabitants are not under government authority. The investigators also held discussions with field-based emergency humanitarian workers, Northern Sudanese Arab traders, Nairobi-based diplomats, Sudanese and non-Sudanese academics and researchers and local officials of the two rebel movements administering the non-government-controlled areas (the SPLM/A and the SPDF).

Although the Government of Sudan declined to issue visas for the team, the investigators were able to speak to individuals who had recent experience of events in government-controlled towns, including former government employees, members of the government armed forces and employees of oil companies.

The investigation, funded by Canadian and British non-governmental organizations, was conducted between April 8 and 27 by Georgette Gagnon, an international human rights lawyer and member of the Canadian government-sponsored Harker mission that visited Sudan in December 1999, and John Ryle, an Africa specialist and author of various studies on Sudan.

MAP A: OIL CONCESSIONS IN CENTRAL AND SOUTHERN SUDAN



MAP B: OIL ACTIVITY AND THE SCENE OF WAR, WESTERN UPPER NILE

