

**GENDER-BASED VIOLENCE IN SOUTHERN SUDAN:
JUSTICE FOR WOMEN LONG OVERDUE**

A Study for the Enough Project

by the Allard K. Lowenstein International Human Rights Clinic at Yale Law School¹

INTRODUCTION

Southern Sudan has a history of gender-based violence (GBV) during times of conflict and instability. GBV is any act of violence against women that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.² This study examines the extent and the sources of gender-based violence in Southern Sudan and analyzes the ability of GBV survivors to secure justice. During Sudan's second civil war, which ended in 2005, many women experienced rape, forced marriage, and abduction. The effects of Sudan's civil wars linger in Sudan and may contribute to instability in the period surrounding Southern Sudan's 2011 referendum.

Five years after the official end of the civil war, GBV remains prevalent in Southern Sudan. Women and children are raped and abducted, with sex workers and women of foreign origin particularly vulnerable. With insecurity increasing in many regions of Sudan, GBV has become more frequent, and women are now specifically targeted during violent inter-ethnic conflict. Sudan's security and armed forces are responsible for much of this violence. However, Sudanese authorities and the international community have failed to protect women from GBV or to hold perpetrators responsible. The number of GBV incidents will likely increase as tensions rise in the aftermath of the 2011 referendum on whether Southern Sudan should become independent. International actors concerned about Sudan's future, including the United

¹ This study was prepared by Caroline Gross, Karen Kudelko, and Chelsea Purvis, student members of the Allard K. Lowenstein International Human Rights Clinic during the 2009-2010 academic year. They were supervised by James Silk, Clinical Professor of Law and director of the Lowenstein Clinic. The Lowenstein Clinic team would like to thank Maggie Fick, then the Southern Sudan Field Researcher for the Enough Project, for her support, guidance, and insight.

² The Beijing Declaration and the Platform for Action: Fourth World Conference on Women: Beijing, China: 4-15 September 1995 (DPI/1766/Wom), paras. 114-116.

States, must take steps to prevent GBV in Southern Sudan and to hold perpetrators accountable.

Survivors of GBV in Southern Sudan face many interlocking barriers to justice: cultural barriers (the marginalized role of women in their families and a social stigma attached to survivors of sexual violence); legal barriers (formal and customary laws, discriminatory judicial processes, and legal procedures that discriminate against women and afford them few legal rights); and systemic barriers (a lack of infrastructure, government resources, and personnel). Together, these barriers make it very difficult for a survivor of GBV in Southern Sudan to seek and obtain justice. The governments of Sudan and Southern Sudan must bring about significant changes in order to provide GBV survivors greater access to justice. These include training police officers to properly and adequately protect survivors of violence, providing training and resources to improve the accessibility and effectiveness of the court system, and reforming the law to stop the practice in the justice system of treating rape and adultery as sub-categories of the same crime.

RECOMMENDATIONS

The UN Security Council must:

- Fully implement Resolution 1325 – which seeks to protect women and girls from conflict-related violence – by developing consistent indicators to monitor progress.
- Strengthen Resolution 1820 on sexual violence during conflict by: (1) closing the loopholes that allow parties to avoid responsibility for authorizing or condoning sexual violence, and (2) extending the resolution’s applicability beyond sexual violence to encompass all gender-based violence in conflict.

The United States must:

- Make GBV a focus of its policy in Sudan, holding the national government of Sudan and the government of Southern Sudan accountable for perpetrating, and failing to protect women from, GBV.
- Treat GBV issues as critical aspects of efforts to improve peace and security in Sudan. The United States can do so in the context of assisting Sudan with its

political transition after the 2010 elections and the referendum on Southern Sudanese independence in 2011.

The governments of Sudan and Southern Sudan must:

- Amend criminal law to provide separate definitions of rape and adultery.
- Study the current customary law system, amend the laws to afford women appropriate rights, and reduce the bureaucratic obstacles women face in seeking justice.
- Change evidentiary rules in rape cases to allow a woman's testimony to have as much weight as a man's.
- Eliminate the requirement in rape cases that there be witness testimony that a sexual act was not consensual.
- Ensure, by executive decree or legislation, that a woman will not be prosecuted for adultery if she is unable to meet the evidentiary standards for proving she has been raped.
- Reform police-reporting processes to be more efficient, confidential, and reliable to ensure that when survivors of GBV seek help, they are protected. Women should be made aware of these protections.
- Support outreach and education programs to make women aware of their rights and to counter the stigma that attaches to survivors of GBV.

International and domestic donors and investors must:

- Provide funding, personnel, and infrastructure to support efforts to codify customary law and to provide paralegal training for customary court officials.
- Provide funding, personnel, and infrastructure to support governmental and non-governmental projects aimed at helping women attain justice.

PART ONE: SUDANESE HISTORY

Many accounts of the two civil wars that have dominated Sudan for nearly fifty years characterize them as either the continuation of a long-standing feud between "Arab" and "African" cultures or an unfortunate result of the arbitrary borders that the

colonial powers imposed on Africa.³ The reality is, of course, far more complicated. Part One of this study examines Southern Sudan's history of conflict as a background to understanding the violence against women that has been a persistent feature of this conflict.

Sudanese History Through Independence

Prior to the spread of Islam to Sudan in the fourteenth century, successive leaders built kingdoms along the Nile in present-day Northern Sudan and raided the hinterlands for manpower and resources. In 1820, Muhammad Ali, an Ottoman leader regarded as the founder of Modern Egypt, conquered Sudan.⁴

The Egyptian regime was overthrown in 1893, but the British collaborated with Egypt to retake Sudan in the late 1890s.⁵ Over the next three decades, the British slowly took control of Sudan away from Egypt, leading up to the 1924 expulsion of all Egyptian soldiers and administrators. In 1930, the British administration in Sudan declared its "Southern Policy": It would administer the South as an "African" rather than "Arab" colony, ruling through indigenous structures of authority.⁶ The government restricted movement into the South and discouraged southerners from adopting Islam, making the South more isolated and religiously diverse than the North.⁷ Disparities in education, economic development, and participation in government grew sharply in this period.⁸ After World War II, the British realized that Egypt's claim to Sudan was stronger, on the basis of international law, than theirs, so to counter Egypt's strong case, they invoked the principle of self-determination in Sudan as a tactic to keep Egypt out.⁹

In the 1950s, as independence approached, northern politicians excluded southerners from all negotiations regarding the kind of government Sudan would have upon independence. After the elections to Sudan's first self-governing legislature in late 1953, southern representatives proposed a federal system in which the South would have

³ DOUGLAS H. JOHNSON, *THE ROOT CAUSES OF SUDAN'S CIVIL WARS* (2003), xiii-xiv.

⁴ *Id.* at 3-4.

⁵ ROBERT O. COLLINS, *A HISTORY OF MODERN SUDAN* (2008), 33.

⁶ Johnson, *supra* note 2, at 12.

⁷ *Id.* at 12, 13.

⁸ *Id.* at 16-17.

⁹ *Id.* at 22.

substantial autonomy, but northern parties ignored their proposals.¹⁰ Dissatisfaction with the northern dominance of the government led to a mutiny in the Sudanese army in 1955, causing the British to hastily set the date of independence for January 1, 1956.¹¹

Because the Sudanese had not had to push for independence, achieving it did not require the building of a national consensus. Sudan's fast-tracked independence set a precedent of circumventing popular will and procedures, a precedent that the new government later followed when it addressed major issues of nationhood.¹²

First Civil War, 1963-1972

Southern politicians started building a broad coalition pushing for federalism by forming alliances with representatives of underdeveloped regions in Sudan's East and West. In response, the government, fearing the momentum for federalism, ceded power to the army in 1958.¹³ The military government launched an Islamicization program in the South that has been characterized as showing an extreme level of racial insensitivity and provocation.¹⁴ In 1963, a group of southern politicians in exile in Uganda formed the Sudan African National Union (SANU), and about 400 volunteers formed a guerilla force, known as Anyanya,¹⁵ in the Sudanese state of Eastern Equatoria.

In 1964, after a protest in Khartoum against the government for failing to subdue the insurgency, the military government dissolved and was replaced with a Transitional Government. The Transitional Government convened a conference in 1965 on the "Southern Problem."¹⁶ However, northern delegates rejected any form of southern autonomy, and the conference ended with no agreement.¹⁷

¹⁰ *Id.* at 26-27.

¹¹ *Id.* at 28-29.

¹² *Id.* at 29.

¹³ *Id.* at 30.

¹⁴ Robert Collins, *Civil Wars in the Sudan*, 5 HISTORY COMPASS 1778, 1780 (2007) [hereinafter "Civil Wars"].

¹⁵ A combination of the Madi word for a fatal snake venom (Inyanya) and a fierce species of ant (Manyanya). *Civil Wars*, *supra* note 13, at 1780; Johnson, *supra* note 2, at 31.

¹⁵ *Civil Wars*, *supra* note 13, at 1780.

¹⁶ *Civil Wars*, *supra* note 13, at 1780.

¹⁷ Johnson, *supra* note 2, at 33-34.

From 1965 to 1969, the fighting intensified, so the 1965 elections were held only in the North.¹⁸ In May 1969, army Colonel Jaafar Nimairi staged a coup and announced a commitment to reaching a political solution to the war, but fighting intensified. With the Anyanya troops' growing military success, the government accepted Anyanya's demand for negotiations in a neutral African country.¹⁹

Addis Ababa Agreement

The parties signed the Addis Ababa Agreement in February 1972.²⁰ The Agreement created a Southern Regional Government (SRG) that had the authority to tax but lacked the power to legislate. Within eleven years, both the North and the South repudiated the agreement. Most southerners deemed it a failure even sooner.²¹

The Agreement failed to resolve many contentious issues. The delegates in Addis Ababa never discussed national development policy. The central government allotted only a small percentage of its development budget to the South, and few projects were undertaken in the South. One project that was carried out, the construction of the Jonglei Canal, primarily benefitted the North.²²

Oil and borders were also critical issues left unresolved. When oil was discovered in the South, Khartoum granted concessions for oil extraction without consulting with the SRG. Nimairi settled any disputes over the construction of refineries in favor of the North.²³ Under the Agreement, some border regions between the North and the South were to be transferred to the South, and the allocation of others to the North or South was to be voted on by the local populations. However, because of the importance to the central government of oil, mineral deposits, and access to rivers in the South, neither the transfers nor the votes took place in most border regions.²⁴ Southerners came to distrust Nimairi's commitment to the Agreement, and he confirmed their suspicions when he

¹⁸ *Id.* at 34.

¹⁹ *Id.* at 36-37.

²⁰ Civil Wars, *supra* note 13, at 1783.

²¹ Johnson, *supra* note 2, at 39, 56.

²² *Id.* at 42, 47-48.

²³ *Id.* at 46.

²⁴ *Id.* at 44.

imposed shari'a law in Sudan in 1983 (with the "September Laws") and dissolved the SRG.²⁵

Second Civil War, 1983-2005

The Second Civil War began in 1983 with the defection to the Anyanya of Sudanese Army Battalion 105. After Nimairi abolished the SRG, a series of defections took place, and by July, the opposition force numbered about 2,500 soldiers. John Garang became the leader of the group, which established a political arm, the Sudan People's Liberation Movement (SPLM), and a military arm, the Sudan People's Liberation Army (SPLA).

The SPLM, for several reasons, did not advocate for outright southern secession: Its patron, Ethiopia, faced its own separatist problem; secession would have been difficult to carry out, because of the lack of a clear geographic dividing line; and there was no support within Africa for separatist movements.²⁶ Nevertheless, many in the movement saw independence as the ultimate goal, leaving open the potential for a future internal split over the movement's objective.

The SPLM's top ranks were divided, because of both ideological differences and interpersonal disputes. Nimairi exploited these tensions by supplying arms to a group of dissidents known as the new Anyanya-2.²⁷ The new Anyanya-2 attacked SPLA supply lines and targeted civilians in SPLA areas. The SPLA retaliated against civilians perceived to have aided the new Anyanya-2.²⁸

In April 1985, the Sudanese army overthrew Nimairi,²⁹ and representatives of the new government participated in talks with the SPLM in Ethiopia, known as the Koka Dam meeting.³⁰ The meeting resulted in a declaration proposing a constitutional convention, a repeal of the September Laws, and the use of the 1956 constitution as an interim constitution.³¹ However, only one northern party, the Umma Party, represented the North at Koka Dam, so the DUP, the other major northern party, declared that it was

²⁵ *Id.* at 56.

²⁶ *Id.* at 62.

²⁷ *Id.* at 65, 68.

²⁸ *Id.* at 69.

²⁹ Civil Wars, *supra* note 13, at 1785.

³⁰ Johnson, *supra* note 2, at 71.

³¹ *Id.* at 72.

not bound by the declaration. When nationwide elections took place a month later, Umma leader Sadiq al-Mahdi became prime minister and formed a coalition with the DUP. Sadiq never publicly repudiated the Koka Dam Declaration, but he never implemented it.³²

In 1986-87, the SPLA took cities in the South and inflicted heavy losses on the northern army. Sadiq unleashed militias (Murahalin) in the Bahr al-Ghazal region of Southern Sudan to contain the SPLA.³³ The militias attacked Dinka villages, killed the men, raped the women, enslaved the children, poisoned the wells, burned the villages, and stole the cattle.³⁴ The strategy of arming militias was not new, but Sadiq increasingly relied on them. The SPLA retaliated brutally against civilian populations they believed supported the militias.³⁵

In 1988-89, the SPLA was on the offensive, and northerners agitated for peace. In 1989, the army issued Sadiq an ultimatum, insisting that he negotiate a peace agreement. Just before Sadiq was to negotiate with Garang, Brigadier Umar al-Bashir led a successful coup by Muslim officers in the army.³⁶

The SPLA maintained the military advantage through 1990, but the fall of the Mengistu government in Ethiopia in 1991 harmed its momentum. The SPLA faced even more turmoil when Riek Machar and Lam Akol, two SPLA commanders in the town of Nasir who felt marginalized,³⁷ announced the “overthrow” of Garang in August 1991 and formed a new “SPLA-Nasir” faction,³⁸ which received arms from Khartoum.³⁹

Peace Process

In the 1990s, foreign governments, both regional and international, took interest in mediating the conflict in Sudan. Talks in 1992 and 1993 in Abuja failed. A 1994 attempt at mediation by a group of East African governments known as IGAD⁴⁰ led to a

³² *Id.*

³³ Civil Wars, *supra* note 13, at 1785.

³⁴ *Id.*

³⁵ Johnson, *supra* note 2, at 82-83.

³⁶ *Id.* at 84-85.

³⁷ *Id.* at 93.

³⁸ *Id.* at 97.

³⁹ Civil Wars, *supra* note 13, at 1787.

⁴⁰ Originally IGADD, the Intergovernmental Authority on Drought and Development; changed to the Intergovernmental Authority on Development in 1997.

Declaration of Principles (DOP) between the SPLA and SPLA-Nasir factions, which the Umma later endorsed.⁴¹

In 1997, Bashir accepted the DOP as a basis for negotiations but with reservations and qualifications. He still believed Khartoum could win militarily,⁴² but the professional quality of the army had deteriorated under his hard-line Islamic regime: The officer corps had been purged of all members who were deemed insufficiently pious in their interpretation of Islam.⁴³

In a 1998 round of IGAD talks, the parties made progress on the issue of self-determination for the South, accepting that it could be decided by a referendum in the South.⁴⁴ After several years without significant progress, the United States and the European Union harmonized their policies, enabling a major breakthrough, the signing of the Machakos Protocol in July 2002. Khartoum and the SPLM agreed that shari'a would govern in the North but that the South would have a secular administration. Khartoum agreed to a 6.5-year transition period leading to a southern referendum on independence. The SPLM agreed to "give unity a chance."⁴⁵

In October 2002, the parties signed a Memorandum of Understanding (MOU) on Cessation of Hostilities, and in February 2003, they signed an addendum to the MOU that created a Verification and Monitoring Team (VMT) to investigate complaints of violations of the MOU. In July 2003, with the outbreak of violence in Darfur, the talks almost collapsed when Bashir rejected a compromise text containing already-agreed-upon provisions, but a September meeting between Garang and the Sudanese vice president succeeded in reviving the talks.⁴⁶

On January 9, 2005, the Sudanese vice president and Garang signed the Comprehensive Peace Agreement (CPA). The CPA called for a government of national unity that would conduct national elections after three years. Oil revenues were to be divided evenly between the North and South. There was to be an internationally monitored ceasefire and demobilization of parts of both armies, and new joint military

⁴¹ Johnson, *supra* note 2, at 102, 104.

⁴² *Id.* at 102.

⁴³ Civil Wars, *supra* note 13, at 1790.

⁴⁴ RUTH IYOB AND GILBERT M. KHADIAGALA, *SUDAN: THE ELUSIVE QUEST FOR PEACE* (2006), 111-12.

⁴⁵ *Id.* at 119-22.

⁴⁶ *Id.* at 123.

units were to be created. A referendum was to be held in the border state of Abyei on whether Abyei would be part of the North or South.⁴⁷

Gender-Based Violence During the War

There has been little reporting on GBV during Sudan's wars, but a recent study found that a large number of women experienced GBV during the second civil war.⁴⁸ Of the 267 women interviewed, few admitted to having been raped, but 41.9 percent knew of others who had been raped.⁴⁹ The study found that of the women interviewed, 36.7 percent knew of other women who had been gang raped, 31.1 percent knew of women who had been forced into marriage, and 28.5 percent knew of women who had been abducted and subjected to sexual abuse.⁵⁰ High percentages of the women interviewed reported physical and psychological torture during the war and long-term health consequences.⁵¹

The factors that fueled the wars in Sudan were not only racial and religious differences; they also included a colonial policy of underdevelopment of the South, an independence movement that excluded southern leaders, a series of governments that refused to negotiate in good faith with the South, particularly over oil and other resource wealth, and a brutal policy toward civilians on all sides of the conflicts. Now, as Sudan moves forward on the basis of the 2011 referendum's results, Sudanese leaders must confront the continuing effects of these wars on civilians, particularly the effects of wartime GBV.

PART TWO: RECENT GENDER-BASED VIOLENCE IN SOUTHERN SUDAN

Notwithstanding the end of Sudan's long civil wars, women in Southern Sudan have continued to suffer from widespread rape and other forms of gender-based violence. Without a large-scale survey of GBV in Southern Sudan, it is difficult to accurately characterize the types and extent of GBV that women experience. Nevertheless, the

⁴⁷ *Id.* at 123-24.

⁴⁸ Isis-WICCE, *Women's Experiences During Armed Conflict in Southern Sudan, 1983-2005: The Case of Juba County – Central Equatorial State* (Sept., 2007).

⁴⁹ *Id.* at 67.

⁵⁰ *Id.*

⁵¹ These consequences included headaches, loss of appetite, fatigue, depression, trembling hands, mental foginess, and poor digestion. *Id.* at 70-81.

clarity with which the nature of abuses and their extent emerge from various reports and studies calls for much more serious attention to the issue. Part Two of this study examines the GBV affecting women and children in Southern Sudan. It explores the sources of this violence and efforts by various international actors to address GBV. Finally, it offers recommendations for how international actors, including the United States, can help prevent GBV in Southern Sudan and hold perpetrators accountable.

Extent and Type of Violence

Women and girls are being raped in Southern Sudan, but these violations rarely come to the attention of the authorities. Although more comprehensive reporting on rape in recent years does not exist, the UN Special Rapporteur on Human Rights in Sudan stated that human rights monitors working in Southern Sudan documented 21 rapes just in the period of September 2007 to January 2008. Victims were frequently beaten and sometimes abducted; six of the victims were children. The majority of the women whose rape cases were described by the Rapporteur did not report their rapes to the police.⁵²

Women and girls in Southern Sudan experience another form of GBV: human trafficking, including for sex work. According to the UN High Commissioner for Refugees (UNHCR)'s 2009 report on trafficking in Sudan, women throughout Sudan are vulnerable to being trafficked within the country for domestic servitude and internationally for sexual exploitation.⁵³ In Southern Sudan, the Lord's Resistance Army (LRA), kidnaps girls "for use as cooks, porters, and combatants; some of these children are also trafficked across borders into Uganda or the Democratic Republic of the Congo."⁵⁴ Southern Sudanese girls and boys have experienced "inter-tribal abduction."⁵⁵ Human traffickers frequently target women and girls in the South because of their ethnicity. In Sudan's second civil war, for example, Arab tribes enslaved thousands of Dinka women and children.⁵⁶

⁵² Special Rapporteur on the Situation of Human Rights in Sudan, Report on the Status of Implementation of Recommendations Compiled by the Group of Experts on Darfur, A/HRC/9/13/Add.1 38-40 (Sep. 2, 2009) (by Sima Samar).

⁵³ U.S. STATE DEP'T, TRAFFICKING IN PERSONS REPORT 2009 – SUDAN (16 June 2009), available at <http://www.unhcr.org/refworld/docid/4a42148f2d.html>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

Finally, girls experience GBV while engaging in sex work in Juba, Southern Sudan's capital city. Poor girls work as prostitutes in Juba to support themselves or contribute to their families. These girls "risk violence, including sexual violence, and trafficking for domestic work or sexual abuse, and have no access to healthcare, both generally and following rape."⁵⁷ Child sex workers who experience GBV also suffer from the health consequences of such violence: They cannot afford condoms to protect themselves against sexually transmitted diseases, and they do not have access to health care.⁵⁸

Sources of Violence

Research suggests that Southern Sudanese security forces and armed forces are responsible for a significant proportion of GBV—particularly of sexual violence. The U.S. State Department 2008 Country Report on Human Rights Practices for Sudan explains that women in Southern Sudan face the threat of physical assault from the LRA and sexual assault from the SPLA and the Southern Sudan Police Services (SPSS).⁵⁹ Human Rights Watch has detailed recent rapes and other physical assaults on foreign- and Sudanese-born women by soldiers and police.⁶⁰ Security forces often assault female foreign workers, who come from neighboring countries and spend nights guarding their wares in markets or working in restaurants and bars.⁶¹ The disorganized nature of the Southern Sudanese military has increased the likelihood that the thousands of armed men posted throughout the region can commit illegal acts, including GBV, without punishment. Demobilization, disarmament, and reintegration (DDR) campaigns in the South have been ineffective, and Southern militias have not been properly integrated into the army since the war. The UN DDR Resource Centre has explained:

After 21 years of civil war, Sudanese society, particularly in the [S]outh, is highly militarized. While the [N]orth has a regular army, whose members can be

⁵⁷ SUDAN: Young Girls Risk Sexual Exploitation on Juba's Street, REUTERS, Jan. 28, 2010, available at <http://www.alertnet.org/thenews/newsdesk/IRIN/b5d6e8ef6c8f90369d1c40c2c3e198e6.htm>.

⁵⁸ *Id.*

⁵⁹ U.S. STATE DEP'T, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2008 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES – SUDAN (25 February 2009), available at <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119026.htm>.

⁶⁰ HUMAN RIGHTS WATCH, THERE IS NO PROTECTION: INSECURITY AND HUMAN RIGHTS IN SOUTHERN SUDAN 29 (2009).

⁶¹ *Id.* at 30-31.

assessed, demobilized or downsized in a comparatively orderly manner, the [S]outh has an irregular liberation army with little organized structure.⁶²

Furthermore, “[t]he prolonged civil war and the communal nature of [S]outh Sudanese life has meant that virtually every male has been involved in the fighting in one way or another.”⁶³ With most men having been involved in the violence of the conflict and many still identified loosely with the SPLA, GBV is likely to persist until the military is under control and clearly demarcated from civilians and civil society.

Another source of GBV in Southern Sudan is violent regional and inter-ethnic conflict. Despite the end of the devastating North-South civil war in 2005, sporadic clashes between Northern and Southern Sudanese forces have continued, and severe inter-ethnic violence within the South has perpetuated a dangerous environment for civilians. “The people of Southern Sudan have borne the brunt of the intense inter-ethnic fighting, rebel attacks, and clashes between the northern and southern armies,” Human Rights Watch has asserted. Human Rights Watch reported in June 2009, “In the most deadly spate of inter-communal violence since the end of the 21-year civil war in 2005, more than 1,000 men, women, and children were killed in attacks in Jonglei state in Southern Sudan in March and April 2009.” During the first half of 2009, more people died violently in Southern Sudan than in Darfur.⁶⁴ Violence in Southern Sudan continues to be severe, and where there is violence, there is often GBV.

There is evidence that violence against women has not been merely *incidental* to general violence in the South but rather that women are being *targeted*. The June 2009 Report of the Special Rapporteur on the Situation of Human Rights in the Sudan noted, “While the Special Rapporteur is aware of the lengthy history of tribal conflict in the [S]outh, she remains shocked by the scale and intensity of the recent attacks in Jonglei, including the targeting of women and children in villages.”⁶⁵ Women have been increasingly targeted in cattle raids, a traditional practice in which rival tribes steal livestock from one another. In the past, these sorts of inter-ethnic attacks have been

⁶² UNITED NATIONS DISARMAMENT, DEMOBILIZATION, AND REINTEGRATION RESOURCE CENTRE, COUNTRY PROGRAMME: SUDAN, available at <http://unddr.org/countryprogrammes.php?c=35>.

⁶³ *Id.*

⁶⁴ HUMAN RIGHTS WATCH, NO ONE TO INTERVENE: GAPS IN CIVILIAN PROTECTION IN SOUTHERN SUDAN 4 (2009).

⁶⁵ Special Rapporteur on the Situation of Human Rights in the Sudan, Report, A/HRC/11/14 16 (June 2009) (by Sima Simar).

attributed to disputes over natural resources and retaliation for prior attacks. According to the Médecins Sans Frontières head of mission in Southern Sudan, recent violent clashes differ from traditional cattle rustling because attackers now target women and children.⁶⁶ Agence France Presse (AFP) reported that “a string of recent raids has shocked many, with an apparent sharp increase in attacks on women and children, as well as the targeting of homesteads.”⁶⁷ The UN regional coordinator for Southern Sudan has called the attacks on women and children “horrendous.”⁶⁸ The frightening turn these attacks have taken recently, including violence against women and children, suggests political and ethnic motivation.

The UN has warned “that poor rains and food insecurity could spark further clashes, with tensions rising as pastoralist cattle herders move their animals into areas controlled by rival groups.”⁶⁹ The January 2011 referendum for independence is likely to lead to increased political tensions and a heightened potential for violence in Southern Sudan. The recent national elections sparked increased violence: As the national elections approached, there was “a very sharp rise in inter-tribal violence,” according to UN Deputy Resident and Humanitarian Coordinator Lise Grande.⁷⁰ Without measures to address food insecurity and to calm ethnic and political tensions in the region, the frequency of unpunished GBV is likely to increase.

Failure of Authorities to Prevent Violence

Women in Southern Sudan have few available resources to protect them from GBV. Security forces commit sexual violence with impunity. “Very weak rule of law institutions and insufficient attention by [Government of Southern Sudan] authorities to

⁶⁶ MÉDECINS SANS FRONTIÈRES, FIELD REPORT, SOUTHERN SUDAN: MSF RESPONDS TO ESCALATING CONFLICT (2009), available at <http://www.doctorswithoutborders.org/news/article.cfm?id=3914&cat=field-news&ref=enewsletter&source=ADN090901E01>.

⁶⁷ *Eleven killed in South Sudan Clash: Military*, AGENCE FRANCE PRESSE, Nov. 12, 2009, available at http://www.google.com/hostednews/afp/article/ALeqM5gP92Yt7c6PrvbtCYnuU0B5H_MuIw.

⁶⁸ Mohamed Osman, *UN: South Sudan Fighting Targets Women, Children*, ABC NEWS, July 8, 2009, available at <http://abcnews.go.com/International/wireStory?id=8030606> (citing David Gressly, UN Deputy Resident and Humanitarian Coordinator, Southern Sudan).

⁶⁹ “AGENCE FRANCE PRESSE, *supra* note 66.

⁷⁰ Alan Boswell, *UN: Clashes on Rise in South Sudan as Polls Near* VOANEWS.COM, Mar. 23, 2010, available at <http://www1.voanews.com/english/news/africa/east/UN-Clashes-on-Rise-in-South-Sudan-as-Polls-Near-88938697.html>.

rule of law issues have given rise to an environment of impunity” for security forces.⁷¹ Neither the national government in Khartoum nor the semi-autonomous southern government in Juba has done enough to protect civilians from recent inter-ethnic violence and cattle raiding.⁷² The Sudanese government has also failed to stop human trafficking: UNHCR reports that the Sudanese government has shown an “overall lack of significant anti-trafficking efforts demonstrated by all levels of the country’s governing structures, each of which bear[s] responsibility for addressing the crime.”⁷³ Juba, where child sex work is prevalent, has few resources for girls who are survivors of GBV. Only one hospital in the city is “equipped to deal with sexual violence.”⁷⁴

Furthermore, non-governmental organizations (NGOs) and humanitarian agencies devoted to protecting and aiding survivors of GBV have been harassed and “restricted by the government,” according to Amnesty International. With nowhere else to turn and “[in] desperate attempts to [escape] the conflict, women and their children [end] up living in [internally-displaced-persons] camps around [Khartoum], often in extreme poverty.”⁷⁵ International agencies are eager to assist survivors of GBV, but they lack resources. The UN Children’s Fund (UNICEF), for example, has trained 78 workers in Juba to help the Ministry of Social Welfare address child rape—but the workers have no office.⁷⁶

International Responses to Gender-Based Violence

The UN has begun to pay attention to the problem of GBV, but the international community has not followed through on its promises to fight GBV in Southern Sudan or elsewhere. The UN Security Council has, since 2000, passed several resolutions that declare goals of protecting women from violence during times of conflict and involving women in peacemaking. Resolution 1325, adopted in 2000, marked “the first time the Council systematically addressed the manner in which conflict affects women and girls differently from men and boys [and] acknowledge[d] the crucial link between peace, women’s participation in decision-making, and the recognition of women’s life

⁷¹ THERE IS NO PROTECTION, *supra* note 59, at 3.

⁷² Press Release, Human Rights Watch, Sudan: End Rights Abuses, Repression (Oct. 6, 2009), *available at* <http://www.hrw.org/en/news/2009/10/06/sudan-end-rights-abuses-repression>.

⁷³ US STATE DEP’T, *supra* note 52.

⁷⁴ REUTERS, *supra* note 56.

⁷⁵ AMNESTY INTERNATIONAL, SUDAN, <http://thereport.amnesty.org/en/regions/africa/sudan>.

⁷⁶ REUTERS, *supra* note 56.

experiences throughout the conflict cycle.”⁷⁷ Resolution 1325 has never been fully implemented, however, because the Security Council has failed to require “consistency in the focus of reporting [on Resolution 1325] or specific expectations for outcome.”⁷⁸

In 2008, the Security Council adopted Resolution 1820 on sexual violence during times of conflict. Like Resolution 1325, it lacks teeth and has not been fully implemented. Resolution 1820 requires the Security Council “to address sexual violence during conflict as the situation evolves.”⁷⁹ The Security Council can employ sanctions against countries “who are either involved in perpetrating sexual crimes against civilians motivated by political ends, or who are negligent in challenging impunity for crimes committed.”⁸⁰ But Resolution 1820 has major weaknesses: It is riddled with loopholes that allow parties to avoid responsibility for allowing sexual violence to occur, and it condemns only sexual violence, not GBV generally.⁸¹ Furthermore, it does not establish “a focal point to address issues related to women, peace, and security at a high level.”⁸²

In 2009, the UN took the first steps toward implementing earlier resolutions seeking to protect women from sexual violence during armed conflict. With Resolutions 1888 and 1889, the Security Council appointed a special representative to address sexual violence in armed conflict.⁸³ In 2009, the General Assembly established a new UN agency for women and the post of UN Under-Secretary-General for Women’s Affairs. AIDS-Free World, an international advocacy organization, calls this move the “UN’s first attempt to form a serious gender entity.”⁸⁴ The new UN agency for women could help ensure that women worldwide are protected from GBV.

⁷⁷ Press Release, Human Rights Watch and Amnesty International USA, UN Security Council Resolution 1325: Recognizing Women’s Vital Roles in Achieving Peace and Security (May 14, 2008), *available at* <http://www.hrw.org/en/news/2008/05/14/un-security-council-resolution-1325-recognizing-women-s-vital-roles-achieving-peace->. *See also* S.C. Res. 1325, ¶¶ 6-17, UN Doc. S/RES/1325 (October 31, 2000).

⁷⁸ Press Release, Human Rights Watch, UN Security Council: Act Now to Protect Women (April 26, 2010), *available at* <http://www.hrw.org/en/news/2010/04/26/un-security-council-act-now-protect-women>.

⁷⁹ MAHIMA ACHUTHAN AND RENEE BLACK, INTERNATIONAL WOMEN’S TRIBUNE CENTRE, SECURITY COUNCIL RESOLUTION 1820: A PRELIMINARY ASSESSMENT OF THE CHALLENGES AND OPPORTUNITIES 21 (2009), *available at* http://www.iwtc.org/1820blog/1820_paper.pdf.

⁸⁰ *Id.* at 22. *See also* S.C. Res. 1820, ¶ 5, UN Doc. S/RES/1820 (June 19, 2008).

⁸¹ ACHUTHAN AND BLACK, *supra* note 78, at 22-23.

⁸² *Id.*

⁸³ S.C. Res. 1888, ¶ 4, UN Doc. S/RES/1888 (September 30, 2009).

⁸⁴ Press Release, AIDS-Free World, AIDS-Free World Welcomes the New UN Women’s Agency; Will the Secretary-General Be Up to the Job of Making it Work? (September 15, 2009), *available at* <http://www.aids-freeworld.org/content/view/274/132/>.

Despite these developments, the UN still falls short in protecting women in Sudan and elsewhere from GBV. Margot Wallström, the new Special Representative of the Secretary-General on Sexual Violence in Armed Conflict, recently described weaknesses in the UN response to sexual violence. One weakness, she told the Security Council, is that the UN does not analyze sexual violence through the lens of “security factors and actors” but rather through “a gender, reproductive-health and development lens.”⁸⁵ Survivors of GBV in Southern Sudan would benefit from a UN approach that rectifies this failure, since women suffer from sexual violence largely at the hands of security forces and armed forces. But sexual violence is not the only form of GBV from which Southern Sudanese women need UN protection. Resolution 1325 would protect Sudanese women and girls from other forms of GBV; for example, it would protect those who are trafficked for domestic servitude or are physically but not sexually assaulted during inter-ethnic conflicts. The UN has not implemented Resolution 1325, however, and thus has failed to protect many GBV survivors.

The U.S. Response to Gender-Based Violence in Southern Sudan

The United States has made progress on addressing GBV internationally, but President Obama has not focused on curbing GBV in Southern Sudan. In 2009, President Obama formed the State Department’s Office for Global Women’s Issues, run by Ambassador Melanne Verveer. Ambassador Verveer has described violence against women as a “pandemic” and argued that it cannot be “relegated to the margins of foreign policy.”⁸⁶ Ambassador Verveer asserted that the well-being of women is vital for the global economy and for national security: Communities fall apart and become “destabilized” when women are systematically attacked. “The correlation is clear,” Ambassador Verveer argued: “[W]here women are oppressed, governance is weak and terrorists are more likely to take hold.”⁸⁷ U.S. policy on Sudan, however, does not reflect Verveer’s commitment to make GBV a focus of foreign policy. In October 2009, the Obama administration outlined three strategic priorities for its Sudan policy: ending

⁸⁵ Press Release, Security Council, Security Council to Act on Indicators for Tracking Implementation of Landmark Text Addressing Women, Peace and Security, UN Doc. SC/9914 (Apr. 27, 2010).

⁸⁶ *Violence Against Women: Global Costs and Consequences: Hearing Before the S. Comm. on Foreign Relations*, 111th Cong. 1 (2009) (testimony of Melanne Verveer).

⁸⁷ *Id.*

human rights abuses throughout the country; resolving conflict between the North and South, either by implementing the CPA or through an “orderly path” to two separate states; and preventing Sudan from being a haven for terrorists.⁸⁸ GBV may fall within “human rights abuses” in this policy, but it is otherwise not a central focus of the administration’s Sudan policy. Moreover, critics argue that President Obama has not put pressure on Sudan to end any human rights abuses. Nicholas D. Kristof asserts, “Mr. Obama and his aides have caved, leaving Sudan gloating at American weakness.”⁸⁹ Despite its stated commitment to make GBV a foreign-policy focus, the Obama administration has not acted to protect women and girls in Southern Sudan from GBV.

PART THREE: SYSTEMIC BARRIERS TO WOMEN SEEKING JUSTICE

Survivors of GBV in Southern Sudan face many interlocking barriers to justice. Some of these barriers are cultural (the marginalized role of women in their families and a social stigma attached to survivors of sexual violence). Other barriers are in the law itself: Formal and customary laws, processes, and procedures discriminate against women and afford them few legal rights. Finally, broader systemic barriers darken the outlook for individuals seeking redress for GBV. These obstacles include a lack of infrastructure and government resources and personnel. Together, these barriers make it very difficult for a survivor of GBV in Southern Sudan to seek and obtain justice. Part Three of this study examines these barriers to justice and recommends steps to remove them.

Cultural Barriers

Marginalized role of women in the family

Southern Sudanese culture emphasizes “the cohesion and strength of the family as a basis of society.”⁹⁰ Since the male is the undisputed head of each household, “[t]he role of women in this social pattern is that of cementing family ties through ‘bride-wealth’ and of producing children. To the outside observer, particularly one whose culture is

⁸⁸ Press Release, U.S. Dep’t of State, Sudan: A Critical Moment, A Comprehensive Approach (October 19, 2009), available at <http://www.state.gov/r/pa/prs/ps/2009/oct/130672.htm>.

⁸⁹ Nicholas D. Kristof, *Obama Backs Down on Sudan*, N.Y. TIMES, Apr. 21, 2010, available at <http://www.nytimes.com/2010/04/22/opinion/22kristof.html>.

⁹⁰ ALEU AKECHAK JOK *ET AL.*, WORLD VISION INTERNATIONAL, A STUDY OF CUSTOMARY LAW IN CONTEMPORARY SOUTHERN SUDAN 7 (2004).

based upon the rights of the individual, the status of women in this role is that of property.”⁹¹ As a result, women are often marginalized in their own families.

Southern Sudanese families exchange women for various benefits during the formation of marriages. Families arrange marriages across tribes and send women to live with their husbands to solidify relationships between clans through the production of children. As a result, families often view young unmarried girls as economic burdens.⁹² When a man marries, his family pays the bride’s family “bride wealth” in the form of cows or other livestock like donkeys, sheep, and goats.⁹³ In a place where extreme poverty is common, this bride wealth can be critical to a family’s well-being; families marry their girls out early and feel as if they have no choice in the matter.

The bride-wealth system also acts to prevent divorce even where marriage is violent or otherwise unbearable. Most young men need their family members to contribute to their bride wealth. Upon marriage, the bride wealth is distributed among the members of the bride’s family. Thus, many family members benefit from and rely upon the couple’s marital success. Although this helps fortify family ties, it also discourages divorce, since divorce requires the collection, return, and redistribution of the bride wealth.⁹⁴ This is a complicated and cumbersome process, bound to anger many family members. In addition, many of the assets the bride’s family members received in bride wealth may no longer exist at the time of divorce; the cattle from bride wealth may have died, been slaughtered for food, or been stolen. The pressure women face to preserve family cohesion makes them more likely to stay in abusive marriages than to end them.⁹⁵ This all leaves women in a vulnerable position that makes them targets for GBV and unlikely to even seek justice when they suffer it.

Even the death of a husband does not free a woman from marriage. In Southern Sudan, the production of children is prized and respected. Men fear “complete” or “true” death – that is, a man dying without having fathered children or without children having been assigned to him. For these reasons, southern Sudanese society has developed ways

⁹¹ *Id.*

⁹² UNICEF, SOUTHERN SUDAN: EARLY MARRIAGE THREATENS GIRLS’ EDUCATION (2005), available at http://www.unicef.org/infobycountry/sudan_28206.html.

⁹³ JOK ET AL., *supra* note 91, at 34.

⁹⁴ *Id.* at 34-35.

⁹⁵ *Id.* at 34-35.

to ensure that men have heirs. For example, social paternity (assigning children to a man) takes precedence over physical paternity (biological paternity). A man can assign his children to a relative to ensure that the relative has heirs. In the Nuer and Dinka tribes, a woman may continue to give birth to children in the name of her dead husband by having sex with one of his surviving male relatives. This practice is called a “leviratic marriage.” A man may also marry a woman in what is known as a “ghost marriage” to produce children in the name of a dead male relative. Southern Sudanese society expects women to be responsible for the care of their children, but men retain control over major decisions about child rearing. As described above, assignment of a woman’s children may be out of her hands after her husband’s death. The ability of Southern Sudanese men to control this practice gives them great bargaining power in any dispute with the woman and puts any woman who seeks justice in a vulnerable position.

The violent conflict in Southern Sudan has contributed to the pressure women face to bear children for their husbands. While men contribute to war efforts by fighting, women are expected to make efforts by continuing to supply the population with children. Societal norms demand that women meet the sexual and child-producing needs of their husbands. Since the start of war, women have been encouraged by their husbands and families to decrease the “fallow period” between children and to nurse their children for a shorter period of time. A woman who knows she does not have the resources to care for another child may still comply with her husband’s wishes just to avoid a beating. This puts her in a difficult position, having to decide between abuse, raising a hungry child, and having an unsafe abortion that could render her infertile.⁹⁶

Stigma for survivors of sexual violence

Women who survive sexual attacks are particularly vulnerable because Southern Sudanese society places a strong negative stigma on them. Society ostracizes the survivors because of this stigma, which makes them more vulnerable to further crime and violence. Furthermore, it is not uncommon for perpetrators to take retributive action

⁹⁶ *Id.* at 152.

against survivors who report.⁹⁷ Women are, therefore, hesitant to disclose what happened to them, let alone to seek justice through the courts or traditional dispute-resolution processes; they are effectively “dying in silence.”⁹⁸

The effects of the stigma have been apparent in attempts by international organizations to survey women in Southern Sudan about GBV. Approximately 18 percent of the 372 women surveyed for a report on policing practices in Southern Sudan identified rape as a security concern facing women in their communities. Fourteen percent identified sexual assault as a security concern as well.⁹⁹ However, the survey report noted, “[s]exual assault, which disproportionately affects women, carries a significant social stigma that leads to under-reporting to family members and authorities.”¹⁰⁰ The authors explained that the same stigma may have led to under-reporting in their survey.¹⁰¹ A Human Rights Watch Report on Southern Sudan similarly noted that sexual violence is severely under-reported, especially when committed by police or security forces.¹⁰² Fear of stigma and retaliation dissuades women from reporting gender-based violence.

Legal Barriers

The women of Southern Sudan face several legal barriers to justice, both in customary and formal legal systems; formal law includes the Sudanese constitution and statutes passed by the Sudanese and Southern Sudanese governments. Ninety percent of civil and criminal cases in Southern Sudan are decided on the basis of customary law, which is generally localized customs and norms that are perpetuated by elders and that govern most public and private conduct.¹⁰³

Formal laws about rape and sexual violence create barriers for women seeking justice. In 2007, Refugees International concluded that, in Sudan, “the definition of rape

⁹⁷ “Watch List on Children in Armed Conflict, Sudan’s Children at a Crossroads: An Urgent Need for Reform (2007), available at http://www.watchlist.org/reports/files/sudan_07_summary.php.

⁹⁸ Email from Dong Luak, Attorney-at-Law and Advocate in Southern Sudan, to James Silk, Allard K. Lowenstein International Human Rights Clinic (Mar. 15, 2010) (on file with authors).

⁹⁹ ALFRED SEBIT LOKUJI ET AL, THE NORTH-SOUTH INSTITUTE, POLICE REFORM IN SOUTHERN SUDAN 12 (2009).

¹⁰⁰ *Id.* at 12.

¹⁰¹ *Id.* at 12 n. 14.

¹⁰² HUMAN RIGHTS WATCH, *supra* note 59, at 31.

¹⁰³ JOK ET AL, *supra* note 91, at 6.

and related evidentiary rules make it functionally impossible to prosecute these crimes successfully; significantly, almost all convictions have resulted from confessions by perpetrators.”¹⁰⁴ Rape is categorized in Sudan as one of the many offenses that amount to *zina*. Often loosely translated to mean “adultery,” *zina* actually encompasses a much broader range of sexual-immorality crimes, including sodomy and rape. The definition of *zina* relevant to rape is nonconsensual sexual intercourse outside of marriage. This does not cover a husband who rapes his wife. Furthermore, if a woman is raped by a man who is not her husband, she may be prosecuted under the adultery form of *zina* if she cannot prove the sex was not consensual.¹⁰⁵ The penalty for *zina* in the Southern States is imprisonment or a fine or both.¹⁰⁶ Therefore, women may be hesitant to bring their case to a formal court if they know their claim could be turned against them.

Another major flaw in Sudanese formal law is that government officials are immune from rape prosecutions. In fact, “[l]egal action cannot be taken against members of the military, security services, police, and border guards and immunity may only be lifted by the individual’s superior officer.”¹⁰⁷ One law exempts any domestic police officer from prosecution for criminal acts carried out “while executing his official duty or as a consequence of those duties;” such actions can be prosecuted only with the permission of the Minister of the Interior.¹⁰⁸ Another law extends immunity to armed forces providing internal security.¹⁰⁹ A 2005 presidential decree specifically excluded soldiers and officials from prosecution for crimes committed while carrying out their duties. This law has been used to shield members of the military who commit rape from prosecution.¹¹⁰ These laws effectively give government officials a license to commit rape without fear of punishment.

Customary law

Women in Southern Sudan have very little power under customary law. Customary

¹⁰⁴ ADRIENNE L. FRICKE WITH AMIR AKHAIR, REFUGEES INTERNATIONAL, LAWS WITHOUT JUSTICE 18 (2007).

¹⁰⁵ *Id.* at 11-12.

¹⁰⁶ In the Name of Allah the Gracious the Merciful, The Criminal Act, 146(4), Sudan, 1991.

¹⁰⁷ FRICKE ET AL, *supra* note 105, at 4.

¹⁰⁸ *Id.* at 10.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

law is not codified, so community leaders, who are usually men, control the law.¹¹¹ A study that examined the customary laws of eight of Southern Sudan's largest ethnic groups found that seven of the groups provided punishment for the crime of rape. These groups require that the rapist compensate the father of the rape victim (with either money or cattle), and a fine or imprisonment may also be required.¹¹² Under customary law, which governs most conduct in Southern Sudan, women survivors are sidelined while perpetrators and survivors' families handle the dispute.

Women who do seek justice for GBV in legal proceedings face discriminatory processes and procedures that further burden their efforts. To prove that she did not consent to a sexual act, a woman must meet an exceptionally high burden of proof. The law requires her to produce four witnesses who will attest to the fact that the sexual act was not consensual, and it is up to the judge to waive this requirement. In addition, many courts accept the testimony of a man swearing on the Qur'an that the act was consensual but do not allow a woman to use this same method to declare that she was raped.¹¹³

Women are generally unaware of their legal rights. They often do not know they can take their cases to court. In a letter to the U.N. Security Council, the civil society group Women of Sudan explained:

Legal systems are often inaccessible to women because of their lack of awareness of their rights and confidence that they can be protected through legal means. The lack of capacities and the absence of grounded approaches to provide legal protection of women and girls are further compounded by the just emerging governance institutions which are supposed to create an enabling environment for empowerment and promotion of gender equality.¹¹⁴

Women who seek justice from the courts of Southern Sudan face discriminatory processes and are disadvantaged by a lack of awareness of their rights.

¹¹¹ Email from Dong Luak, *supra* note 99.

¹¹² FRICKE ET AL, *supra* note 105, at 59.

¹¹³ *Id.* at 12-13.

¹¹⁴ PEACE WOMEN, A MESSAGE FROM THE WOMEN FROM SOUTHERN SUDAN TO THE UN SECURITY COUNCIL IN RELATION TO UN SECURITY COUNCIL RESOLUTION NO. 1325 (2006), available at http://www.peacewomen.org/campaigns/Sudan/Juba_Sudan_ngoletterjune06.doc.

Systemic Barriers

Women in Southern Sudan face broader systemic barriers to justice for GBV. These include a lack of resources, infrastructure, and personnel.

The 2008 U.S. State Department Country Report on Human Rights Practices in Sudan found that in the South, “[t]he court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force.”¹¹⁵ These deficiencies have been noted in each State Department report on Sudan since 1999. The 2001 report noted a lack of “personnel” in the court system as well.¹¹⁶ Southern Sudan suffers from a dearth of judges, lawyers, and experts trained in serving survivors of sexual and gender-based violence. Few judges actually hear cases in all of Southern Sudan, and judicial leadership has been unable to keep up with changing laws and legal processes.¹¹⁷

Women seeking justice for GBV are also unable to seek assistance from police. The Southern Sudanese Police Force (SPSS) is responsible for law enforcement and should file full reports and document gender-based crimes to help the survivors provide evidence in court. However, in 2008,

[t]he SPSS lacked resources and capacity. Police reports were often incomplete, if used, [and] files frequently misplaced Police corruption, impunity, and lack of effectiveness were problems. There were reports of retaliation against persons who complained about police abuses.¹¹⁸

Furthermore, to seek medical treatment for rape and other sexual violence, women must obtain a completed Form 8 from police officers. Unfortunately, officers often sell these forms instead of providing them properly, leaving some women without access to medical treatment.¹¹⁹ Corruption and a lack of resources and training make the SPSS a highly unreliable source of support for women seeking justice for GBV in Southern Sudan.

¹¹⁵ US DEP’T STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2008 REPORT ON HUMAN RIGHTS PRACTICES: SUDAN (2009), available at <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119026.htm>.

¹¹⁶ US DEP’T STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2001 REPORT ON HUMAN RIGHTS PRACTICES: SUDAN (2002), available at <http://www.state.gov/g/drl/rls/hrrpt/2001/af/8405.htm>. See also <http://www.state.gov/g/drl/rls/hrrpt/index.htm> for copies of each report.

¹¹⁷ Email from Dong Luak, *supra* note 99.

¹¹⁸ 2008 REPORT ON HUMAN RIGHTS PRACTICES: SUDAN, *supra* note 116.

¹¹⁹ Email from Dong Luak, *supra* note 99.

CONCLUSION

GBV was prevalent in Southern Sudan during Sudan's civil wars and has continued since the end of the war. Rates of rape, abduction, and other forms of GBV are likely to rise as political and economic tensions increase in the context and aftermath of the January 2011 referendum. There are many causes of GBV in Southern Sudan and many barriers for survivors seeking justice. The government of Southern Sudan, the government of Sudan, and international actors involved in the region can and must take action to protect women and children from GBV, to enable them to secure justice for the abuses they have suffered, and to hold perpetrators accountable.