

A Joint Humanitarian Aid Commission and Sudan Relief and Rehabilitation Commission Policy Framework for the return of displaced persons in a post-conflict Sudan

Statement of Recognition and Commitment

Nothing in this agreement shall take precedence over the protocols of the peace agreement.

The purpose of this Policy Framework is to recognize the rights of all displaced persons in Sudan and pledge commitment to the support of their return to places of origin or other destinations of their choice and of their protection, including addressing their potential needs to become self-reliant, in accordance with the constitution of Sudan (the future Interim National Constitution) and the laws of the SPLM (Government of south Sudan), international human rights law and humanitarian law, and for Refugees, the 1951 Convention of Refugees and the 1967 Protocol, and other relevant international statutes and covenants to which the Sudan is a signatory.

This Policy Framework recognizes that the needs and rights of the host community to which the displaced return or resettle, or among which the displaced remain should they choose not to return, must be addressed at the same time as the displaced.

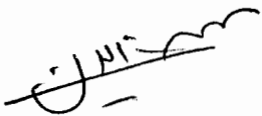
This Policy Framework shall have a life of six years but can be amended at any time with the consent of both parties.

Article One - Definitions

Internally Displaced Persons (IDPs): Persons considered internally displaced by this Policy Framework include persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular, as a result of, or in order to avoid, the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disaster and have not crossed an international border.

Refugees: Persons falling under the 1951 Convention on Refugees and the 1967 Protocol, and any other regional instrument containing provisions for refugees, and who have fled to neighbouring or third countries of asylum.

Other displaced: Persons who, as a consequence of the conflict, were induced to leave their normal places of residence for protracted periods and whose current circumstances may make their return and reintegration problematic. These include demobilized combatants from demobilized militia, child soldiers and abductees.



The Displaced: The term used throughout this document to refer to all groups of displaced persons. In most cases this will refer primarily to IDPs and returning refugees, but the principles spelled out in this Policy Framework shall also be applied to other displaced as defined above.

Return: The voluntary process of going back to one's place or region of origin. In the case of refugees, the term "repatriation" may be substituted for "return".

Resettlement: The voluntary process of starting a new life in any place in Sudan other than that of the original place or region of origin. This shall include displaced originating from rural areas who choose to resettle in urban areas.

Reintegration: Describes the re-entry of formerly displaced persons or refugees back into the social, economic, cultural and political fabric of their original community.

Local Integration: Describes a process where displaced choose not to return to their places or regions of origin and instead choose to integrate and adapt into the social, economic, cultural and political fabric of their host community.

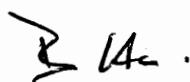
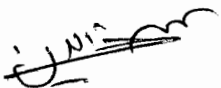
Rehabilitation: The re-establishment of a way of life and level of self-sufficiency at least equivalent to that which existed prior to their displacement and where dependence on external assistance is minimized and, eventually, eliminated. Such recovery will require the establishment of sustainable livelihoods, basic social services and a process of reconciliation in communities of return or resettlement.

Authorities: The term used generically throughout this document to refer to the respective national Government authority, the Government of south Sudan, regional or local authority addressing any particular response to the needs of the IDPs, returnees and refugees in any particular region of Sudan.

Article Two – Policy Objectives Underpinning this Policy Framework

The following principles are adopted to guide the process of response to IDPs, returnees or refugees in a post-conflict Sudan:

- 1) That the primary responsibility for displaced persons in Sudan is that of the State of Sudan and its relevant authorities;
- 2) That all displaced persons enjoy proper protection and dignified treatment by responsible authorities during the process of return and on arrival at their places of return in accordance with international human rights and humanitarian law;
- 3) That in all cases, return of displaced persons to places or regions of origin or elsewhere must be voluntary;
- 4) That the returning displaced be carefully monitored to ensure that appropriate interventions are made in support of those failing to cope adequately during the process of return and upon return;
- 5) That durable solutions must be found for all returning or resettling displaced, as well as for those displaced that remain in their current host communities;
- 6) That levels of assistance provided to different groups of returning displaced be harmonized as far as is feasible so as to prevent any group of displaced appearing to



- be more privileged than others and that the displaced be informed of the support to which they are entitled and the procedures for accessing such support;
- 7) That special efforts be made to ensure the full participation of women in the planning and distribution of all basic support to the returning displaced;
 - 8) That where ever possible, and with the exception of addressing groups with special needs and highly vulnerable groups, assistance to returning displaced in areas of return be community-based and of a nature that will benefit all persons in those communities;
 - 9) That the displaced will enjoy the same rights and freedoms as all other citizens, irrespective of whether the displaced choose to return to places or regions of origin, resettle elsewhere or remain in their current locations;
 - 10) That the roles and responsibilities of all actors responding to the needs of the displaced, including that of the displaced themselves, the communities among which they reintegrate, the GoS and SPLM (Government of south Sudan) authorities, intergovernmental organizations and local and international NGOs be clearly defined, and that clear rules and codes of conduct be set to guide their response to the displaced;
 - 11) That the promotion of the inherent capacities and productivity of the displaced lead to a dignified life in areas of return or resettlement. In this connection, every effort must be made to provide access to land so that the displaced can re-establish sustainable livelihoods; and
 - 12) That facilities and structures in existing IDP camps be retained, where appropriate, for the benefit of host communities.
 - 13) The host communities are to be strengthened in order to continue supporting local integration .
 - 14) Preposition and provision of social services and other productive services are to include participation of private sector.

Article Three - Articulation of Rights and Reference to Standards

This Policy Framework draws upon existing commitments of the GoS and SPLM (Government of south Sudan), the internationally recognized legal norms on human rights and humanitarian law to which Sudan is a signatory, and for Refugees, the 1951 Convention on Refugees and the 1967 Protocol. At the same time, the principles adopted must be consistent with:

- 1) The Constitution of Sudan;
- 2) The laws of the SPLM (Government of south Sudan)
- 3) Cabinet Resolution No. 310 towards the displaced people in Sudan of 1988;
- 4) The recommendations of the Second National Conference and National Workshop on Internal Displacement of September 2002;
- 5) The recommendations of the Workshop on Internally Displaced from and within New Sudan held in Rumbek in September 2002; and
- 6) The norms and traditions of Sudan.

Article Four – Adopting and Implementing this Policy Framework

This Policy Framework constitutes the accepted official policy of the GoS and SPLM (Government of south Sudan) that will guide Sudan's response to the needs of the displaced, and by extension, all parties among the international community and national civil society

who will support national efforts to bring about durable solutions to the problem of displacement in Sudan. A special Joint Working Committee made up of representatives of both parties, under the leadership of the General Commissioner of the Humanitarian Aid Commission and the Commissioner of the SRRC, shall oversee the implementation of this Policy Framework

The Policy Framework will be shared with the International Humanitarian Organizations as being the underpinning 'road map' for all assistance in support to national authorities, state government and other authorities in addressing the needs of the displaced in both areas of return and resettlement, as well as in areas where the displaced choose to remain.

Article Five - Creation of a HAC/SRRC Institutional Structure for the Coordination of Protection and Assistance Needs of all Displaced Sudanese

The two parties will establish Joint IDPs and Returnees Operation Centres in both Khartoum and Rumbek staffed by representatives of HAC and SRRC respectively and supported by the UN system. The two centres will address the needs and response to all displaced populations in Sudan, including returning refugees. The principal purpose of the centres will be to coordinate the planning, implementation and monitoring of the return of displaced persons and the local integration of those IDPs that choose not to return to places or regions of origin.

In support of the Joint Working Group, the two centres will collaborate to ensure that data collection on population movements and all assistance strategies is undertaken in a standardized and consistent manner and that such data are disseminated to all stakeholders on a regular basis. The centres will be responsible for monitoring protection needs of all displaced and will ensure that appropriate remedial actions are taken to redress all violations of the displaced persons' human rights. The centres will also be responsible for monitoring the effectiveness of the displaced persons' reintegration and rehabilitation and will be tasked with identifying any gaps in assistance and recommend on appropriate action needed to address such gaps.

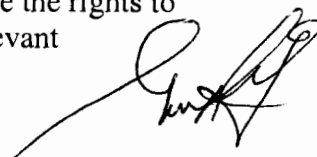
Article Six – Statement of Rights and Obligations

The following set of rights of the displaced and obligations toward them by relevant authorities shall guide the implementation of this Policy Framework and establish the responsibility and accountability of authorities responding to the needs of the displaced.

1. Protection Against Further Arbitrary Displacement

All authorities in areas containing displaced persons shall respect, and ensure respect of international law and the Constitution of Sudan (Interim National Constitution) and the laws of the SPLM (Government of south Sudan) to prevent further arbitrary displacement in post-conflict Sudan.

Relevant Government Authorities shall ensure that any movement of displaced individuals that they undertake is done so only when absolutely necessary for their safety or to mitigate threats posed by natural disasters, or as part of urban or rural planning that will enhance the affected persons' quality of life, is carried out in a manner that does not violate the rights to life, dignity, liberty, self-sufficiency and security of those being relocated. Relevant



Government Authorities shall also recognize that special attention must be paid to protect groups with special attachment to their lands from further displacement.

2. Freedom of Movement

All authorities pledge to protect and guarantee the freedom of movement and related rights of the internally displaced as provided for in the Constitution of Sudan and the laws of the SPLM (Government of south Sudan) and in international humanitarian and human rights law.

The displaced shall not be forcibly interned in or confined to camps. If in exceptional circumstances such confinement is absolutely necessary, it shall not last longer than required by the circumstances. Every displaced person has the right to freedom of movement and freedom of choice of their place of residence. In particular, displaced persons have the right to move freely in and out of camps or other settlements.

The Sudanese authorities, in collaboration with the humanitarian organizations, shall ensure that the displaced have adequate and accurate information about prevailing conditions in areas of potential return to allow them to make informed decisions on whether to return or when to return.

Relevant Government Authorities will do their utmost to grant the United Nations, NGOs and other humanitarian aid agencies access to IDP camps without restrictions. Where restrictions are deemed necessary, the authorities will provide reasons for restrictions.

3. Physical Security

The authorities pledge to provide protection and physical security of the displaced in all areas where displaced populations are located. They will undertake whatever efforts are necessary to respond to all reports of violations of the human rights of the displaced and redress the impacts of such violations in a timely and effective manner. Such protection is to be provided in areas of displacement from which the displaced have yet to return or where they choose to remain, during return to places or regions of origin, and upon arrival in areas of return or resettlement.

The Sudanese authorities shall ensure that effective transparent mechanisms are used to monitor the protection needs of the displaced.

Special attention will be given by authorities to the protection of displaced women from all forms of harassment and sexual exploitation.

The authorities shall make every effort possible to ensure that the displaced will not be placed at risk from landmines and unexploded ordinances (UXOs) in areas of return or resettlement or along the routes used during the process of return. The authorities will seek, where necessary, support from the international community to expedite the clearing of mines and UXOs to ensure that the displaced are able to move and re-establish themselves in safety.

They will also ensure that appropriate landmine and UXO mine risk education programmes are created among all community members in all areas where risks of mines and UXOs exist and among displaced communities that are preparing themselves for return. Victim assistance programmes need to be established.

4. Protection from all Forms of Discrimination

The authorities pledge to protect the displaced against all forms of discrimination.

Displaced persons, regardless of gender, whether in areas of displacement, living in camps, in process of returning or in areas of return or resettlement, shall not be discriminated against in the enjoyment of the rights to freedom of thought, conscience, religion or belief, opinion and expression. They have the right to seek freely opportunities for employment, participate in all legitimate economic activities, access all social services, associate freely, participate equally in community affairs, vote, including to communicate in a language they understand.

In the case of returning refugees, there shall be no fear of prosecution on account of having left Sudan.

5. Protection During Return

The respective authorities commit themselves to protect the right of physical security and freedom of movement of the displaced during their return to places or regions of origin or to areas of resettlement and strive to promote respect for family unity and social, economic and cultural rights in accordance with international human rights and humanitarian law.

Such protection shall include the provision of basic food, shelter and access to potable water while enroute to areas of return or resettlement. It shall also include protection from all forms of harassment and coercion and from all forms of informal 'taxation' or confiscation of belongings while enroute to areas of return and resettlement.

6. The Right to Essential Needs

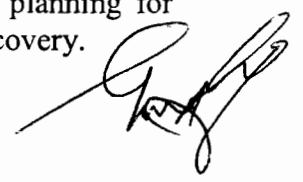
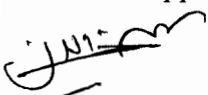
All authorities shall recognize that displaced persons, irrespective of where they are, have the right of access to essential food and potable water, basic shelter, appropriate clothing, basic education and essential medical services and sanitation. Attention shall be paid to the special needs of children in keeping with the Convention on the Rights of the Child.

The authorities will make special efforts to ensure the full participation of women in the planning and distribution of these basic needs.

7. Displaced Persons and Documentation

The authorities shall issue to displaced persons all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates, marriage certificates and land titles where appropriate. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without the imposition of unreasonable conditions, costs or delays. When necessary, traditional courts or community leadership will be used for proof of identity.

Registration of the displaced shall be undertaken by authorities or their agents solely for the purpose of facilitating documentation, monitoring population movements and planning for support to the process of providing reintegration assistance, rehabilitation and recovery.



Displaced women and men shall be granted equal rights when obtaining needed documents. Also women and girls will have documentation issued in their own names. Special efforts will be made to provide documentation to orphans.

8. Family Unity

The authorities pledge to protect the rights to, and integrity of family unity and community. All displaced persons have the right to know the fate and whereabouts of missing relatives and all reasonable efforts will be made to trace and reunify 'lost' family members. Special efforts will be made with respect to the reunification of unaccompanied minors with their families or communities of origin. The authorities shall facilitate inquiries made by family members and cooperate with the work of humanitarian organizations engaged in assisting family reunification.

Grave sites of internally displaced persons shall be protected and respected in all circumstances. Internally displaced persons shall have the right of access to grave sites of deceased relatives and have the right to return their remains to areas of origin should they wish to do so.

9. Quality of Life of the Displaced

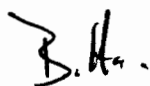
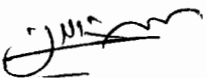
The authorities pledge to protect and support the right of all internally displaced persons to an adequate standard of living.

10. Health Care of Displaced Persons

The authorities recognize the health-care needs of the displaced and that particular attention shall be paid to the special health needs (maternal and reproductive) of displaced women. All displaced persons in need of health care, as well as those with disabilities, are entitled to the fullest extent practicable and with the least possible delay, to appropriate medical care as available to other citizens, without distinction on any grounds other than medical ones. Where necessary, displaced persons shall have access to appropriate psychosocial support arising from conflict-related events or from past harassment or sexual abuse, as well as other social services that will facilitate their rehabilitation.

Authorities shall pay special attention to raising awareness of prevention of the spread of contagious and infectious diseases, including HIV/AIDS, among displaced persons, especially in areas of return. The displaced shall not be discriminated against on the basis of any existing health conditions and authorities will place priority on health education for prevention and containment of infectious diseases.

Authorities shall endeavour to provide basic access to potable water and sanitation to all communities among which displaced persons are located.



11. Access to Education

The concerned authorities shall ensure that displaced children, in particular those that had not previously had access to any education, have access to education which shall be free and compulsory at the primary level. Education will respect cultural identity, language and religion. Special attention will be given to the integration of students coming from schools with different curricula.

Special efforts shall be made to ensure the full and equal participation of women and girls in educational programmes. Displaced persons, in particular youths and women, both in areas of return or resettlement and among those displaced who opt for local integration, shall have equal access to all adult education and training facilities available to local community members.

Local authorities will take steps to ensure that educational or professional certificates obtained elsewhere be recognized and will establish the necessary certification/evaluation mechanisms.

12. Durable Solutions in Areas of Return, Resettlement or in Areas of Local Integration

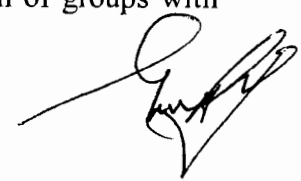
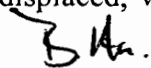
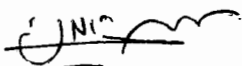
Displaced persons who have returned to their places or regions of origin, who have resettled elsewhere or who choose to remain in their current host communities will have the right to participate fully and equally in public affairs at all levels and have equal and unimpeded access to public services. Special efforts will be made to ensure the full participation of the displaced in the planning and management of their return or resettlement and their reintegration and rehabilitation.

Authorities shall be responsible for creating and implementing strategies for return or resettlement of the displaced in keeping with the guidelines contained in this Policy Framework and in consultation with all other stakeholders including the displaced and the communities of return. Such strategies shall take into consideration the timing of the agricultural cycles in order to minimise the periods of food insecurity that the displaced will face on return or resettlement. They will also be responsible for monitoring the effectiveness of all return, reintegration, rehabilitation and recovery strategies and take appropriate steps to redress any obstacles to the achievement of durable solutions. Reconciliation and peace-building activities will form an integral part of this process.

Authorities will do their utmost to grant access to the international agencies and non-governmental organizations rapid and unimpeded access to returning displaced persons in order to support their reintegration, rehabilitation and recovery where ever the capacities or resources of the local authorities prove inadequate and thus require such support. Similar provisions will be made for displaced persons choosing to remain with their current host communities.

Local authorities shall be responsible for collecting appropriate information in a consistent and standardized manner on the physical conditions in areas of return, resettlement or local integration and the dissemination of such data to regional capitals and to Khartoum, and by extension to the international community and civil society.

The underpinning principle guiding all return movements and local integration in the search for durable solutions shall be that the displaced, with the possible exception of groups with



special needs and acutely vulnerable groups, shall be assisted through community based interventions where all members of the community stand to benefit from the input of national or international resources. Such community-based interventions will be consistent with national and regional development goals.

13. Access to Land and Property

Authorities shall make every effort possible to ensure that returning or resettling displaced shall be given adequate access to land, in the case of rural return sufficient land for cultivation and in the case of urban return sufficient for housing. Such provisions will be governed by norms applicable to other community members in areas of return or resettlement. Similar provisions shall be made for displaced choosing local integration.

Authorities shall establish or strengthen appropriate mechanisms in both rural and urban areas to deal with all property claims that will arise from the return process and that such processes will be resolved in a timely manner. Traditional mechanisms will also be used in this regard.

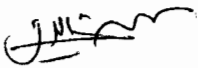
14. Promoting Livelihoods and Productivity of the Displaced

The authorities shall mobilize local resources, and seek the support of the international community and local non-governmental organizations, to promote livelihoods and productive capacity among the displaced. Such capacity building will include skills and vocational training, adult education, and extending social services. The primary goal of such capacity building, and the concomitant increase in productive skills among the displaced, is to promote and sustain self-reliance. Such capacity building will, whenever possible, be available to both the displaced and members of their host community.

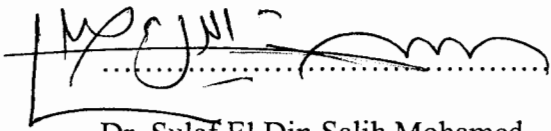
Special attention will be paid to absorbing youths, including returning demobilized combatants and militia, into all vocational training and livelihood creating activities. Likewise, special attention will be paid to the creation of income generating opportunities for women. The international community will be requested to augment available national resources needed as start-up capital and for micro-credit schemes required for the promotion of livelihoods. The authorities recognize that the need for livelihood creation will be especially challenging in urban areas.

15. Efforts to Promote Public Awareness of the Rights of the Displaced and of this Policy Framework

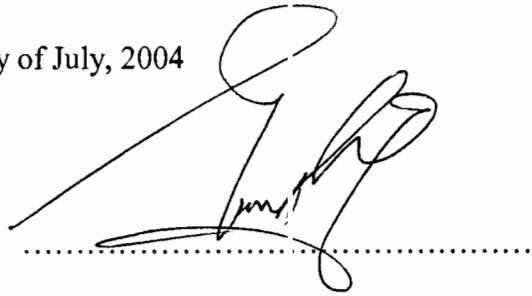
The GoS and the SPLM (Government of south Sudan) shall ensure that a proper understanding of this policy, at both regional and local levels, is disseminated through public awareness and training programs and through the media.



Signed at Nairobi, Kenya this thirteenth day of July, 2004



Dr. Sulaf El Din Salih Mohamed
General Commissioner
Humanitarian Aid Commission



Elijah Malok Aleng
Commissioner
Sudan Relief and Rehabilitation Commission

Witnessed by



Bernt Aasen
Deputy Humanitarian Coordinator (South Sudan)

