

Part II Section A – International Humanitarian and Human Rights Issues Related to Forced Displacement

Factual Circumstances	Applicable Law	Comments
<p>Indiscriminate Attacks and Intentional Targeting of Civilians</p> <p>Government of Sudan ("GOS") forces have attacked villages in Ruweng County and Unity State with Antonov bombers and used helicopter gunships to shoot and kill civilians. The GOS deployed ground troops including, the GOS army, GOS-armed militia (murahaleen, Popular Defence Force ("PDF") and the forces of Paulino Matiep) to kill and terrorize civilians including women and children.</p> <p>Attacks against civilians have been taking place since at least 1992 in and around the oil fields located in the Western Upper Nile ("WUN") and are continuing.</p> <p>A major GOS offensive against civilians and civilian occurred from May to July 1999. The towns and villages attacked by the GOS did not contain concentrations of rebel military forces, supporters or assistance.</p>	<p>Common Article 3 of the Geneva Conventions of 12 August, 1949 ("Common Art. 3") requires that "persons taking no active part in the hostilities", "including members of armed forces who have laid down their arms and those placed <i>hors de combat</i>" shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. In respect of the above persons, Art. 3 prohibits at any time and in any place, among other things:</p> <ul style="list-style-type: none"> (1) violence to life and person, in particular murder of all kinds; and (2) summary executions. <p>Customary international law and Art. 13(2) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts ("Protocol II") prohibits:</p> <ul style="list-style-type: none"> (1) making civilians as such the object of attack; and (2) acts or threats of violence, the primary purpose of which is to spread terror among the civilian population. <p>Customary international law dictates that:</p> <ul style="list-style-type: none"> (1) all combat activity must be justified on military grounds; activity that is not militarily necessary is prohibited. (2) attacks may be directed <i>only</i> against objects that make a contribution to the enemy's military effort and are of tactical and strategic importance. Incidental loss and damage must be minimized. (3) parties to an armed conflict must always distinguish 	<p>⇒ Common Art. 3 applies to non-international conflict in the territory of a State party and thus is applicable to the conflict in Sudan. It requires that all parties to the conflict – the GOS and the rebel groups – apply as a minimum the requirements set out in Common Art. 3.</p> <p>⇒ Although Common Art. 3 does not expressly prohibit attacks against civilians, such attacks by the GOS and its allies against civilian men, women and children is in violation of the prohibition against violence to life, murder of all kinds and summary executions of persons not taking part in the hostilities.</p> <p>⇒ Attacks and combat activity by the GOS targeted at civilians are in violation of customary international law that gives immunity to civilians and requires parties to a conflict to distinguish between civilians and civilian objects on the one hand and combatants and military targets on the other. No credible evidence demonstrates that the civilians, villages and areas attacked by the GOS in Ruweng county and Unity State constituted legitimate military targets or military objectives that contributed to military action and contained, for example, concentrations of SPLA forces and persons taking an active part in the conflict or were the site of military installations. In any situation, the GOS attacks against civilian objects and persons cannot be justified as militarily necessary nor can the use of Antonov bombs and helicopter gunships against civilians and civilian objects.</p> <p>⇒ According to Francis Deng, the Representative of the Secretary-General of the United Nations Commission on Human Rights Issues Related to Displaced Persons, even if civilians provide indirect support to the rebels by, for example, supplying food, shelter or acting as messengers "they may not be subject to direct individualized attack since they pose no immediate threat".</p>