

## International Humanitarian and Human Rights Law Issues

County and Unity State in and around the oil fields which have been subject to major GOS offensives.

The indiscriminate attacks by the GOS and its allies on civilians and civilian areas including villages and temporary settlements of IDPs has caused civilians to flee. Civilians have fled to the swamps, to other villages and to temporary settlements. Because of the lack of food, shelter, clothing, clean water and mosquito nets, many IDPs have fallen ill and are dying. In particular, the children and elderly are most vulnerable to disease and death.

As mentioned above, in the course of these attacks on civilians and civilian areas the GOS has destroyed and looted NGO compounds.

These attacks and the monitoring of the radio network of one organisation has resulted in humanitarian organisations pulling their operations out of certain areas in the WUN because they are too dangerous.

**Common Art. 3(2)** requires that the parties to the conflict parties to collect and care for the wounded and sick without conditions. It further states:

"An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict."

### **Art. 7(2) Protocol II**

"In all circumstances [the wounded and sick] shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones."

**The Statute of the ICC** lists as a war crime in internal conflicts:

- (1) intentionally directing attacks against medical units;
- (2) intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance mission, as long as they are entitled to the protection given to civilians or civilian objects under the law of armed conflict and;
- (3) intentionally directing attacks against hospitals and places where the sick and wounded are collected, provided they are not military objectives.

⇒ According to the ICRC, fear of diversion of food aid to enemy forces provides no legal justification for refusing passage of food aid.

⇒ The wounded and sick displaced persons who fall under the control of a party to the conflict are entitled to medical care, whether or not they previously committed hostile acts.

⇒ Deng suggests that inasmuch as "as article 7 of Protocol II merely clarifies and elaborates on the pre-existing duty in common article 3 to provide the wounded and sick with medical care, it should be regarded as customary law.

⇒ The GOS acts which prevent access by humanitarian workers and their attacks on IDPs some of whom are sick and wounded violate the fundamental obligations in Common Art. 3, Art. 7(2) Protocol II, Art 17(1) Protocol II (see above) and customary international law.

⇒ Deng further states that although Common Art. 3 is silent on the question of access by relief workers to persons in need once the state party has consented to offers of humanitarian relief, "[c]onsent to such access, which is indispensable to the provision of relief, must be presumed from the acceptance of the organization's offer of humanitarian services".

⇒ Common Art. 3 does not expressly provide for protection of humanitarian relief workers or their relief bases or compounds. However, as persons who are taking no active part in the conflict, these workers are protected under Common Art. 3 and customary international law. Thus, the GOS bombing and destruction of the Medair compound violates both Common Art. 3 and the rule of customary international law which prohibits attacks against civilian and civilian objects.

⇒ The Committee on ESCR has stated that the deprivation of any significant number of persons "of essential primary health care" constitutes a violation of the Covenant unless the State concerned can demonstrate "that every effort has been made to use all resources that