

UNIVERSITY OF NAIROBI
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A critical Analysis of the Role of Children in Armed Conflict. A Case Study of Southern Sudan (2002-2005)

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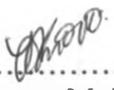
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**A Research Project submitted in partial fulfillment of
The Degree of Master of Arts in International Studies**

November 2008

DECLARATION

I, *James Mutungi Kioko* hereby declare that this research project is my original work and has not been presented for a degree in any other University.

Signed.....
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Date..... 10. 11. 2008

This project has been submitted for examination with my approval as University Supervisor.

Signed.....
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Date..... 10th November 2008.

ABSTRACT

Participation of children in armed conflict in Kajo Keji County has been an issue of major concern. Children as young as eight years were recruited in the army. The recruitment was either voluntary or forced. This happened in disregard of international legal instruments, national laws and customary laws that govern the treatment of children under all circumstances.

This is a study to investigate the consequences of participation of children in armed conflict. It raises pertinent issues on the state and conditions in which children grew up in South Sudan and particularly Kajo Keji County. It highlights the social development of children in Kajo Keji County. It examines in greater details what the international law, the national law and customary say about children as far as protection is concerned. The study has tried to compare the theoretical aspects of the law and the actual practice on the ground.

The study found out that the use of child soldiers in the armed conflict in Southern Sudan is widespread. Many children have either joined the fighting forces voluntarily or they were forced to do so. All the international legal instruments regarding protection of children in Southern Sudan have been flouted with impunity. There is no action that has been taken against the GoS or SPLM/A for violating laws which they are a party to. Most of the structures necessary to facilitate effective CCPN were not there in Kajo Keji. This became difficult for the community to get much involved in issues pertaining to the welfare of their children at a higher level. The administration of justice in South Sudan was very weak. Courts did not exist and those that existed rarely functioned, sometimes administering justice very unfairly. The people handling children cases had very little

training or none at all on issues to do with administration of justice on children. Customary law continues to be in conflict with the international law. Girls are forcefully married off at a tender age against their will. Boys and girls below 18 years old are send to fight.

Social services in Kajo Keji County were very poor and limited. There was poor educational system in South Sudan. Schools were very few and those that existed were poorly equipped. They did not have good facilities. Classes were held under trees, there wasn't enough teaching and learning material, teachers did not have adequate training and others were not trained at all. They did not have skills of dealing with traumatized children who had been demobilized from the military. Health services were very few and had very limited supply of drugs. Many children died as a result of lack of adequate treatment. Hence there was very poor social development of children as a result of lack of services necessary to facilitate this.

TABLE OF ABBREVIATIONS.

ACRWC	African Charter on the Rights and Welfare of Children
CCNP	Community Child protection Network
CPA	Comprehensive Peace agreement
GoS	Government of Sudan
GoSS	Government of Southern Sudan
NGO	Non Governmental Organizations
NDA	National democratic Alliance
SPLM/A	Sudan People's Liberation Movement/Army
DDG	Danish Demining Group
GNU	Government of National Unity
IDP	Internally Displaced Persons
ILO	International Labor Organization
ICG	International Crisis Group
IAS	International Aid Sweden
LOAC	Law of Armed Conflict
OLS	Operation Lifeline Sudan
PHCC	Primary Health Care Centre
PHCU	Primary Health Care Unit
UNICEF	United Nations Children Fund
UNCRC	United Nations Convention on the Rights of the Child
UXO	Unexploded Ordinances
UN	United Nations

DEDICATION

This study is dedicated to my children, Jesse Mutungi, Nina Mutungi, Nancy Mutungi and all the suffering children of the world.

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The author is indebted to Ms Anita Kiamba, for her time, contribution, guidance and supervision.

This study could not have been realised without the help of some children, who played a crucial role in the Sudan armed conflict. No words can express my appreciation for them and for the help and cooperation they provided. I am particularly thankful to all my respondents for the help they provided me.

And to the love of my life, my wife, Mary Mumbua, I thank you for your tireless support and undying love.

In acknowledging all those who have been involved in carrying out this study, I hope that measures will be taken to curb the use of child soldiers in armed conflicts.

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CHAPTER ONE: Justification and Objectives of the study

1.1 Problem Context

Many conflict situations have emerged in various parts of the world over the last one decade. Civil wars and ethnic violence have surrounded many areas of Africa, Eastern Europe and former Soviet Union since the end of the cold war. Lake and Rothschild¹ state that localities, states, and sometimes whole regions have been engulfed in convulsive fits of ethnic insecurity, violence and genocide. Over the last one decade, Africa has had the largest share of conflicts. These conflicts have been caused by what Mitchell² refers to as incompatibility of goals about something. In most African states, incompatibility of goals revolves around four key areas namely structural, economic and social, political and cultural factors. Each side in a conflict wants to control everything in the country.

Many ills practiced in Africa such as tribalism, corruption, political, cultural and economic suppression, poverty and what Galtung³ refers to as structural violence or social injustice have given rise to the conflicts afflicting the African continent. The behavior of conflicts in Africa has taken many forms such as fighting, striking, litigating, and bargaining. Reuck⁴ explains that all these forms of conflict behavior are attempts to decide the outcome in favor of one party or another.

Goldstein⁵ concludes that in many instances, these conflicts usually lead to violence and war. Each conflict has its own objectives to which parties involved pursue with vim, verve and vigor. The more each side believes in its objectives the

¹ Lakes, D. A. and Rothschild, Donald, "Containing fear: The Origins and Management of Ethnic Conflict," *International Security*, 1996, vol. 21, no. 2 p. 41.

² Mitchell C.R. *The Structure of International Conflict* (London: Macmillan, 1998) pp 16-20.

³ Galtung J. 'Violence, Peace and Peace Research' *Journal of Peace Research*, Vol. 6 No. 3 (1989) pp. 169-171

⁴ Reuck A. D. "The Logic of Conflict: Its Origin, Development and Resolution" in M. Banks (ed.) *Conflict in World Society: A New Perspective on International Relations* (Sussex: Harvester Press, 1984) pp. 96-97

⁵ Goldstein J.S. *International Relations* (Delhi, Dorling Kindersley (India) Pvt. Ltd, 2006) pp 197-232

more the violence escalates. As Goldstein⁶ states, parties to a conflict start getting involved in an arms race, where each builds up military capabilities in response to each other. Widespread societal conflicts in Africa are often played out against the backdrop of deep poverty, illiteracy and weak systems of governance. Rugumamu⁷ declares that most African states have failed to respond adequately to the critical social needs of their citizens because of, being undermined by unfavorable terms of trade, indebtedness and administrative failures. He⁸ further states that the insensitivity to people's needs has led to serious revolt by the masses and as a result, governance has become impossible.

1.2. Background to the Research Problem

Goldstein⁹ states that many contemporary societies like Sudan, Afghanistan, Angola, Burma, Iraq, Lebanon, Liberia, Mali, Sierra Leone, Somalia, Sri Lanka, and the Former Yugoslavia are increasingly using children in warfare. More than 200,000 children have been involved in wars in different parts of the world. Africa has witnessed the largest share of these conflicts in the world in the last one decade.

Various conflict systems can be identified in Africa namely the Horn of Africa, the Great Lakes, West African, and South African conflict systems. These conflicts in Africa have disrupted the lives of many children in many ways. The conflicts, coupled with many other countless problems have made the lives of many children unbearable and almost a nightmare. For example, children are not able to attend schools, some are separated from their parents and getting food for them is a big problem.

⁶ Goldstein J.S. *International Relations* (Delhi, Dorling Kindersley (India) Pvt. Ltd, 2006) p. 94

⁷ Rugumamu S.M. *Conflict Management in Africa. Diagnosis of Current Practices and Future Prospects* (Addis Ababa: 2002) p. 3

⁸ Ibid

⁹ Goldstein J.S. *International Relations* (Delhi, Dorling Kindersley (India) Pvt. Ltd, 2006) p. 94

Internal or domestic conflicts have been internationalized. Internal conflicts have become one of the greatest threats to international security. People have crossed borders for fear of persecution. International organizations, national governments, non-government organizations, and members of civil society, among others, have been forced to respond to internal conflicts and their devastating effects.¹⁰ Mwangiri¹¹ defines internationalization of conflicts as the process through which domestic affairs develop international characteristics. Mwangiri¹² further states that internationalization of conflicts is when internal conflicts cross the boundaries of countries and involve the communities in neighboring countries. Zartman¹³ further states that collapsed African states have had harmful spillover effects on neighboring countries.

The overflow of refugees, heightened ethnic tensions in some cases, and the resulting diplomatic conflicts, have engaged substantial resources and efforts from the relatively stable countries that share borders with collapsed states. In the process, what were once thought to be mere domestic conflicts have now been internationalized. The internationalization of conflicts means that what is happening in one conflict has an effect on other countries. A good example is the recent conflict in Kenya which affected all the neighboring countries in the region. Nairobi is a regional hub connecting African destinations such as Rwanda, Burundi, Comoros, Sudan, Uganda and Seychelles.¹⁴ The media, as an agent of internationalization of conflicts, immediately inform us of what is happening to children in different parts of

¹⁰ Prevention and Recovery Program, The Fund for Peace, NW, Washington, DC p.1

¹¹ Mwangiri M. *Conflict: Theory, Processes and Institutions of Management*, (Nairobi: Watermark, 2000) p.61

¹² Ibid

¹³ Zartman, I. W. *Collapsed states: The disintegration and restoration of legitimate Authority* (Boulder, CO: Lynne Rienner, 1995) pp.1-5

¹⁴ President Yoweri Kaguta Museveni traveled to Kenya in January 2008 to help in finding a solution to the Kenyan crisis. The reason for doing this was that Uganda relies heavily on Kenya for transit of goods from Mombasa port into Uganda. Continuing the crisis would see the economy of Uganda break down. Condoleezza Rice, The US Secretary of State was sent by President George Bush to quickly help find a solution to the Kenyan crisis because Kenya is very important to the international community. It is the hub of East and Central African region.

the world. Hence the problem of participation of children in armed conflicts has become a global problem.

Sudan is one of the countries that have been affected by conflicts for so many years. It falls in the Horn of Africa conflict system. Sudan is a country that is so different in many ways. Waihenya¹⁵ gives a detailed graphic description of Sudan.

Sudan is a patchwork of diversity. Sharply divided by geography, culture, race, ethnicity and religion, it has been a cauldron of conflict for 34 of its 46 years of independence. Its inhabitants like considering Sudan as the frontier between southern Black Africa and the Arab nations of the north. The people of Egypt and Israel knew it as the land of Cush and later as Nubia. The Greeks and the Romans called it Ethiopia, which means “The land of the Burnt-Faced ones.” Today, it is simply called ‘Sudan’. It has a population of 36 million people and its capital city is Khartoum. Until the signing of the comprehensive peace agreement its official language was Arabic.

The description above paints a picture of a multi-cultural, multi-ethnic, multi-racial, multi-religious and a multi-lingual society. Sudan’s North – South civil war, which ended after the signing of a Comprehensive Peace Agreement¹⁶ began in 1983 and was primarily a conflict between the Government of Sudan based in the north, and the SPLM/A based in the south. In addition to the cultural factors that fuel the conflict, political ambitions, colonial history and the struggle to control the country’s vast natural resources, especially oil, add to the complexity of the conflict, and conflicts within the SPLM/A such as power sharing, tribalism, corruption and among other southern actors further complicate the situation.

Vayrynen¹⁷ states that the involvement of different actors transforms a conflict significantly through addition of their own issues, rules and structures. The situation in the Sudan conflict has been complicated by the involvement of the constituents of

¹⁵ Waihenya W. *The Mediator Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process*, (Kenway Publications, Nairobi, 2006) p. 47

¹⁶ The Comprehensive Peace Agreement was signed between GoS and SPLM/A on the 9th January, 2005

¹⁷ Vayrynen R. (ed), *New Directions in Conflict Theory: Conflict Resolution and Conflict Transformation* (London, Sage Publications, 1991) pp. 2-7.

both parties who have interest and issues in the conflict. In addition, the war in Darfur continues to rage and the NDA, comprising members from northern opposition parties along with the SPLM/A has control of an area between Kassala and Hamesh Koreb along the Eritrean border.¹⁸

With strong international support, the peace process between the Government of Sudan and the SPLM/A made significant progress, and on the 9th of January 2005, the GoS and the SPLM/A signed the Comprehensive Peace Agreement (CPA). A third party mediation process settled the conflict, with IGAD spearheading the talks. General Lieutenant Sumbeiywo¹⁹ played a crucial role in the mediation process. Sudan (excluding Darfur) is now officially at peace. The Comprehensive Peace Agreement will institute a power-sharing government in Khartoum between the GoS and the SPLM/A for six years following an interim 6-month period, as well as a Southern Sudan Government with a high degree of autonomy. At the end of the six-year period, there will be a referendum on Southern Sudan secession.

The twenty two years of on-going violence has meant that the children in the country have never known a time without war or violent conflict and instability. This affected children immensely in terms of psychological, mental, social and physical development.²⁰ In this culture of conflict, death and violence, separation from parents and caregivers, forced displacement and the cessation of organized patterns of living are all factors that interrupt the normal flow of child and adolescent development. The loss of social and economic opportunities, security, trust in humankind and a sense of hope for the future all have a devastating impact on the psychological and social

¹⁸ For detailed analysis of the situation in North –Eastern Sudan, see International Crisis Group. *'Sudan: Towards an Incomplete Peace'*, Africa Report No. 73, December 11, 2003

¹⁹ For more details on how General Lt Subweiywo managed the mediation process, see Waihenya W. *The Mediator Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Proces* (Kenway Publications, Nairobi, 2006)

²⁰ Raundalen M. and Melton G.B. Children in war and its aftermath: Mental health issues in the development of law. *Behavioral Science Law*, Winter, 1994, 12(1): p 21-34

well-being of children and parents or guardians who care for them.

1.3 Statement of the Research Problem

Even though most countries have ratified international legal instruments prohibiting the use of children in armed conflicts, many countries continue to do so with abandon. Countries have agreed and accepted that children should not participate in war for the reason that at their age they are not able to make informed decisions on some critical issues. Ratification²¹ is one of the means that a state expresses its consent to be legally bound by a treaty. It usually follows signature of the treaty. States ratifying the Convention on the Rights of the Child or its Optional protocols must deposit their instruments of ratification with the UN Secretary General.

There is no single country in the world involved in armed conflict that does not engage participation of children. The question then is, why should children play a role in armed conflicts when this goes against what many nations have agreed should not happen. Children in South Sudan were forcefully recruited into SPLM/A as child soldiers. Others voluntarily joined the fighting forces because that was the only place they were assured of security from what their seniors perceived as the enemy. Parents and guardians greatly influenced children in the perception of who the enemy was.

The presence and participation of these children in the fighting forces caused them great and untold suffering. Their role in the military had adverse social effects. Children who were born in 1983 have never known any other life other than that of war. They crossed into adulthood without living the life of a child. Children in South Sudan are among those who have suffered most in the world. They were maimed,

²¹ Feltham R.G. Diplomatic Handbook (The Hague, Longman, 5th Edition, 2001) P. 116

killed, tortured, raped and totally denied the opportunity to live and grow up like children. Little was provided to children in the way of social norms.²²

1.4 Objectives of the Research

1. To examine the role played by children in armed conflicts and what effects this had on them.
2. To investigate the observance of national and international law in the involvement of children in the armed groups.
3. To examine how the causes of the armed conflict led to participation of children in war in Southern Sudan.

1.5 Research Questions

1. How did the causes of armed conflict in South Sudan influence the participation of children in armed groups as well as their recruitment?
2. What role did children play in the armed conflicts?
3. What legal mechanisms have been put in place to address the outcome of participation of these children in armed conflicts?

1.6 Justification of the Research.

Children were drafted in the fighting forces in South Sudan in large numbers between the year 2001 and 2003. It is estimated that over 12,000 children have been recruited in the army in South Sudan during this period.²³ There is a need to understand the reasons behind the recruitment of this large number of children as well

²² UNICEF, *The state of World's Children*, 2005, p 28

²³ UNICEF, *The state of World's Children*, 2003, p 26

as the role they played in SPLA/M. There is also a need to explore the effects and the impact this participation of children in the fighting forces has had on their lives.

Policy justification: The study will be of great significance to various groups of people who are stakeholders in their attempts at restoring peace to the troubled region of South Sudan. It will assist the Government of Sudan, Government of South Sudan, Non-Governmental Organizations and policy makers to understand better the effects of participation of children in armed conflicts. By understanding this, they will be able to develop, formulate and implement policies to facilitate reintegration of children back into their communities as well as designing programmes aimed at preventing future recruitment.

The study will also enable the Government of Sudan and other stakeholders to understand the impact and consequences of participation and therefore prevent further involvement of children in the fighting forces. The study will help the stakeholders to sensitize the community on the many needs of these children and how they can devise ways of re-absorbing them back into the community and assisting them to speed up the process of reintegration. The study will enable stakeholders to educate the communities on the role they can play to prevent recruitment of child soldiers.

Academic justification: Children in South Sudan have known nothing but war all their lives. The study of children in their attempts to survive in a very hostile and unfriendly environment will break new grounds in the academic sphere. It will be an addition of new knowledge to the already existing scanty knowledge on child soldiers. It will discover new ideas on issues affecting children particularly the effects that arise as a result of their involvement in armed conflicts. It will systematically highlight the various stages that children go through once they join the fighting forces.

Many children in South Sudan undergo tremendous social and psychological maladjustment after participating in the military. The adverse and harmful experiences children undergo in South Sudan have not systematically been documented before. The research will venture to thoroughly highlight these effects and therefore add more value to the existing body of knowledge as pertains to children who voluntarily or by force participate in the military.

Kajo Keji County is an important area for study because intense fighting between SPLA/M and the Government of Sudan took place here for many years. Children were unable to lead normal lives by being forced to live like adults and perform tasks that were far beyond their capability. As such they became what they ought not to have become. Their lives were adversely affected and disoriented. They witnessed horrible things like people being killed, children being molested and their mothers and sisters being raped and made to perform chores not suitable for their age..

1.7 Literature Review

The literature review will include an examination of the causes of armed conflicts in Southern Sudan, the recruitment of child soldiers in the fighting forces, how child soldiers were used in the armed conflicts and demobilization and reintegration of child soldiers.

1.7.1 Literature review on the Causes of armed conflicts in Sudan.

Mwagiru²⁴ defines conflict as when two or more parties have incompatible goals about something. Reuck²⁵ says that a conflict situation is usually said to arise

²⁴ Mwagiru M, *Conflict: Theory, Processes and Institutions of Management*, (Nairobi: Watermark, 2000) p.

between parties who perceive that they possess mutually incompatible objectives. These two definitions apply in the S. Sudan context where various groups had failed to agree on many issues. The term armed conflict is used to broadly refer to international, internal or ethnic conflicts of high and low intensity. In an armed conflict there is an active and evident hostility between two or more warring groups.²⁶ Armed conflicts are as a result of communities having been deprived of their needs.

Brown²⁷ states that political philosophers and social scientists have identified four main clusters of factors that make some places more susceptible to violence than others. These factors are structural, political, economic/social and cultural/perceptual. Some of these factors can be applied in the Sudan case to explain the causes of the internal conflict.

Political factors can explain the cause of the internal conflict in Sudan. The emergence and rise of national ideologies such as ethnic nationalism have led to outbreak of internal conflict in Sudan. Nationalism is a collective group identity that passionately binds diverse individuals into a people. This compelling identification of one group tends to produce conflict with others. Kwaje²⁸ argues that nationalism leads to separatism and self determination demands. In Sudan separatist demands were key in the 38 year old war, which ended after the CPA provided for a referendum on secession for the south after a six year interim period.

²⁵ Reuck A. De. "The Logic of Conflict: Its Origin, Development and Resolution" in M. Banks (ed) *Conflict in World Society: A New Perspective on International Relations* (Sussex: Harvester Press, 1984) pp. 96-97

²⁶ The Coalition to stop the Use of Child soldiers, *A Research Guide for the Child Soldiers Report*, 2004, p 6. Cape Town Principles and Best Practices, Cape Town, 1997. p 1

²⁷ Brown M E. (ed) *The International Dimensions of Internal Conflict* (Cambridge. Mit Press 1996) p. 577

²⁸ Kwaje, S.L. 'The Sudan Peace Process: From Machakos to Naivasha' in M. Mwagiru. (ed), *African Regional Security in the Age of Globalization*, (Nairobi: Heinrich Boll Foundation, 2004), pp. 96-99

Johnson²⁹ affirms that the causes of war in Sudan are organized around a set of “historical factors” that he places at the root of Sudan’s civil wars. Foremost among the causes of the country’s recurring wars is a the history of contemporary conflicts that predate colonial interventions and Britain’s decision to grant independence to a united Sudan before inequalities and disparities between North and South could be remedied.

Economic and social problems have also been a major cause of the internal conflict in Sudan. Lake and Rothchild³⁰ posit that the state controls access to scarce resources. There has been an imbalance in the distribution of the country’s resources. The distribution of resources has been a major cause of the conflict in Sudan. Most of the significant oil fields are found in the south. Oil revenues make up about 70% of Sudan's export earnings³¹. The oil does not benefit the communities living in the south. Oil has contributed to existing processes of violence in the protracted civil war in Sudan. Upon realization of the significance of oil findings in Southern Sudan, the GOS altered laws covering ownership of the country’s reserves by creating new northern states in southern territory so that regional authorities would be excluded from future earnings.³² This example illustrates the economic exploitation perpetrated by the Arab-led northern government against the impoverished south. This economic deprivation provided additional reasoning for both sides to utilize violence as a means of securing access to political and economic goods.

²⁹ Johnson, D. H. *The Root Causes of Sudan's Civil Wars* (Nairobi, East African Educational Publishers, 3rd impression, 2006) p. xvi

³⁰ Lakes, D. A. and Rothschild, Donald, “Containing fear: The Origins and Management of Ethnic Conflict,” *International Security*, 1996, vol. 21, no. 2 p. 45.

³¹ Keen, David. ‘The political Economy of War’, in Frances Stewart and Valpy Fitzgerald, eds., *War and Underdevelopment, Volume 1, The Economic and Social Consequences of Conflict*. (Oxford. Oxford University Press, 2001) pp 220-239.

³² Ibid.

Due to numerous tributaries of the Nile River and heavier precipitation in southern Sudan; the south also has greater access to water, and is therefore much more fertile. The north of the country is on the edge of the Sahara desert. The northern desire to control these resources, and the southern desire to maintain control of them, has contributed to the internal war.

Keen³³ asserts that cultural and perceptual factors have led to the conflict in Southern Sudan. There has been cultural discrimination against the minorities as manifested in for example inequitable educational opportunities, political constraints in use of teaching of minority languages and constraints on religious freedom. The medium of instruction in the education system in Sudan is Arabic. The Southerners are opposed to this idea. *Sharia* law is practiced and Christian practices are not given a fair chance. Muslims and non Muslims view each other with suspicion. There is no trust amongst the two religious groups. The south is predominantly Christian. All these issues have given rise to a revolt against the Government of Sudan.

Johnson³⁴ explains that the southern resentment of northern Muslim Arab domination culminated in a mutiny among southern government troops in Equatoria Province in 1955. These troops were upset that the Khartoum government had failed to deliver on its promises to Britain that it would create a federal system. Many years later, the southern region continued experiencing civil strife, and various leaders from the south agitated for regional autonomy or outright secession. Kwaje³⁵ posits that Sudan is characterized by rich diversity, history, geography, people, religion and culture, which has unfortunately been ignored. He further argues that;

³³ Ibid.

³⁴ Johnson, D. H. *The Root Causes of Sudan's Civil Wars* (Nairobi, East African Educational Publishers, 3rd impression, 2006. p. 40

³⁵ Kwaje, S.L. 'The Sudan Peace Process: From Machakos to Naivasha' in M. Mwagiru. (ed), *African Regional Security in the Age of Globalization*, (Nairobi: Heinrich Boll Foundation, 2004) p. 95

Instead of using its historical and contemporary diversity to evolve a Sudanese commonwealth to which all Sudanese pledge undivided loyalty and allegiance irrespective of religion, ethnicity and gender, all the governments of post-colonial Sudan have only Arabism and Islamism. This narrow definition has made the modern Sudan unjust, repressive, oppressive, rapacious and extremely violent against a section of its citizens. This in turn has made a section of Sudanese people particularly from the south take up arms.

All these factors combined have given rise to the conflict that has ravaged Sudan for many years. The complex nature of the conflict has led to the involvement of almost everybody including children. Children have been made to believe by their leaders that they are making a significant contribution towards this war by performing various chores in the armed groups. The people of south Sudan have been agitating for equality of treatment as citizens, equality in social and economic development, preservation of their cultures, land and religious freedoms and rights.³⁶ The GOS denied them these rights which led to an uprising that was meant to reclaim them.

Johnson³⁷ states that the recurring civil wars in south Sudan are a product of several factors. Patterns of governance which developed in Sudan states before the 19th century established an exploitative relationship between the centralizing power of the state and its peripheries. The introduction of militant Islam in the late 19th century, inequalities in economic, educational and political development, Britain's decision to grant independence in 1956 to the whole of Sudan before disparities in development could be addressed, the idea of attempting to build a national identity based on the principles of Arab culture and the religion of Islam and Sudan's involvement in the international politics of the cold war have all been seen as factors that have fuelled the conflict over the years.

³⁶ Waihenya W. *The Mediator Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process* (Nairobi Kenway Publications, 2006) p. 49.

³⁷ Johnson, D. H. *The Root Causes of Sudan's Civil Wars* (Nairobi, East African educational Publishers, 3rd impression, 2006) pp. xvi-xvii.

In conclusion, most writers discussed have identified the causes of the Sudan conflict as being political, economic, social and cultural. Bad leadership, which excluded the southerners from the governance of Sudan, made them take up arms. Imbalance in the distribution of the county's resources left the whole of the south completely impoverished. Most writers have concurred that religious and cultural factors was a main issue in the Sudan war. The combination of these factors led the south to seek self-determination and the hence the outbreak of the protracted conflict. The yearning to seek justice led to participation of all cadres of people in society, including children.

1.7.2 Literature on recruitment, demobilisation and reintegration of child soldiers into the society.

Recruitment³⁸ refers to three different means by which persons become members of armed forces or armed groups namely compulsory, voluntary, and forcible or forced. Compulsory recruitment is defined in national legislation and thus typically applies to regular conscription into the armed forces. Voluntary recruitment is usually regulated by law or policy and occurs without conscription or force. Forcible or forced recruitment entails the use of force outside the law.

There has been a high pitch of international concern about child soldiers and other children caught up in conflict since the landmark UN report on the subject by Machel³⁹ in 1996. In recent years, an alarming trend has been the increasing participation, direct and indirect of children in armed conflicts. A child soldier is

³⁸ Cape Town Principles and Best Practices, Cape Town, 1997. p. 1

³⁹ UNICEF: *The State of World's Children report 2006* p. 43

defined as any person less than 18 years of age who is a member of or attached to the armed forces or an armed group, whether or not there is an armed conflict.⁴⁰

According to a report by Olara Otunnu,⁴¹ it is estimated that more than 250,000 children under the age of 18 are serving as combatants in government armed forces or armed opposition groups in on-going conflicts. The brutal reality has been aggravated by a qualitative change in the nature and scope of conflict in recent times. Current conflicts are primarily internal, often fought by multiple, semi-autonomous armed groups within existing state boundaries.

In the past decade, around 2 million children have been killed in armed conflict, three times as many have been seriously injured or permanently disabled, and countless others have been forced to witness or even to take part in horrifying acts of violence.⁴² The report points to the changing character of modern warfare which makes children be so brutally exposed during modern warfare, not just accidentally but as deliberate targets. All of today's wars are being fought not between States but within them. And in many cases religious and ethnic affiliations are being manipulated to heighten feelings of hatred or aggression against children as well as adults. Battles are fought from village to village and from street to street. As a result, the proportion of war victims who are civilians has leapt in recent decades from 5 per cent to over 90 per cent and at least half of these are children.⁴³

The report further says that children are being deliberately recruited as combatants. This has been made easier by the proliferation of light weapons. Assault rifles are cheap and widely available, due to the international arms trade that is on the increase. In Uganda, an AK-47 can be purchased for the cost of a chicken. Previously,

⁴⁰ The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, article 1, 2 and 3, 2000

⁴¹ UN Secretary General Report on Children and Armed Conflict, Mr. Olara Otunnu, 2006

⁴² The United Nations, *Promoting the Human Rights of Children*, 2006 p. 6

⁴³ Ibid

the more dangerous weapons were heavy or complex, but these guns are so light that children can use them, and so simple that they can be stripped and reassembled by a child of ten years.⁴⁴

The recruitment of child soldiers in the military happens in different forms. Machel⁴⁵ notes that some children are recruited, others are press-ganged or kidnapped and still others are forced to join armed groups to defend their families. South Sudan, having been involved in war for 21 years, does not have any records of registration of births. Recruiters can only guess at ages based on physical development and may enter the age of recruits as 18 years to give the appearance of compliance with international and national laws.⁴⁶

In many instances, recruits are arbitrarily seized from the streets or even from schools and orphanages. Children from poorer sectors of society are particularly vulnerable. Children, who work in the informal sector, selling cigarettes or gum or lottery tickets in the streets, are a particular target. In all conflicts, children from wealthier and more educated families are at less risk. Often they are left undisturbed or are released if their parents can buy them out. Some children whose parents have the means are even sent out of the country to avoid the possibility of forced recruitment.

In addition to being forcibly recruited, the youth also present themselves for service. It is misleading, however, to consider this voluntary. While young people may appear to choose military service, the choice is not exercised freely. They may be driven by any of several forces, including cultural, social, economic or political pressures.

⁴⁴ Ibid

⁴⁵ Machel. Graça. *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children*, (Hurst & Company, 2002)

⁴⁶ Ibid

One of the most basic reasons that children join armed groups in South Sudan is economic.⁴⁷ Hunger and poverty may drive parents to offer their children for service. It has been found out that child participation may be difficult to distinguish in South Sudan as in some cases whole families move with armed groups for protection. Children themselves may volunteer if they believe that this is the only way to guarantee regular meals, clothing or medical attention.

Machel⁴⁸ also notes that as conflicts persist, economic and social conditions suffer and educational opportunities become more limited or even non-existent. Armies begin to exhaust the supplies of adult manpower and children may have little option but to join the forces. Some children feel obliged to become soldiers for their own protection. Faced with violence and chaos all around, they decide they are safer with guns in their hands, not because this is part of their culture, but circumstances. Often such children join armed opposition groups after experiencing harassment from government forces. In South Sudan societies, military life was the most attractive option.

Children often take up arms to gain power and as Burton⁴⁹ argues, power can act as a very strong motivator in situations where people feel powerless and are otherwise unable to acquire basic resources. Thus as Burton⁵⁰ further declares in his human needs theory, the reason why people take up arms is to satisfy their needs which they have been denied. In many situations, war activities are glorified. The lure of certain beliefs is particularly strong in early adolescence, when young people are developing personal identities and searching for a sense of social meaning.

⁴⁷ Watchlist on Children and Armed Conflict (2006) Sudan Report.

⁴⁸ Machel. Graca, *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children*, (Hurst & Company, 2002) p 34

⁴⁹ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 36.

⁵⁰ *Ibid* p. 36.

Children may also identify with and fight for social causes, religious expression, self-determination or national liberation.

Sudan has not had a national census since 1983. Many of the statistics available are estimates of UN agencies and NGOs and others are based on surveys in select regions. As a result, some of the statistics may be limited to government controlled areas and therefore may exclude large segments of the population. Therefore without a well organized census it may not be possible to establish the actual number of child soldiers serving in the military as well as the nature of participation of those already serving in the armed conflicts.⁵¹

Machel⁵² argues that one of the most urgent priorities is to demobilise everyone less than 18 years of age from armed forces. Demobilisation⁵³ is the formal and controlled discharge of soldiers from the army or from an armed group. As an operational aspect of conflict resolution, demobilization aims to reduce the number of people engaging in armed conflict and to provide the requirements for such individuals to reintegrate themselves into their society.

No peace treaty to date has formally recognized the existence of child combatants. As a result, their special needs are unlikely to be taken into account in demobilization programmes. In Mozambique, for example, where recruitment of children was well known both locally and internationally, child soldiers were not recognized in demobilization efforts by RENAMO, the government or the international community. Verhey⁵⁴ argues that once children have been demobilised, they are not adequately followed up. The lack of follow up will make the children

⁵¹ Watchlist, *Children and Armed Conflict* (2006) Sudan Report.

⁵² Machel, Graca, *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children*, (Hurst & Company, 2002). pp 45-46

⁵³ University for Peace. *A glossary of terms and concepts in peace and conflict studies*, Second edition 2005, p 30, ⁵³ Capetown Principles and Best Practices, Cape Town, 1997. P. 1

⁵⁴ Verhey, B. *Going Home. Demobilizing and Reintegrating Child Soldiers in the Democratic Republic of Congo* (London, Save the Children, 2003) p. 54

rejoin an armed group due to poverty at home or lack of something to occupy their time. Re-recruitment results more from harassment and force by local military authorities than from the child's choice. Some demobilised children become discouraged by the poverty of their family and community and are enticed with monetary promises by military officials.

Machel⁵⁵ states that reintegration programmes must re-establish contact with the family and the community. Reintegration⁵⁶ is a long term process that aims to give children a viable alternative to involvement in fighting forces and help them resume their life in the community. Even children who are successfully reunited with their families have little prospect of smoothly taking up life as it was before. A formerly cheerful 12-year-old may return home as a sullen 16-year-old who feels newly assertive and independent.

Reunification may be particularly difficult for girl soldiers who have been raped or sexually abused, in part because cultural beliefs and attitudes can make it very difficult for them to stay with their families or to have any prospects of marriage. With so few alternatives, many children have eventually become victims of prostitution.

Machel⁵⁷ continues to assert that it is essential for the process of reintegration to help children establish new foundations in life based on their individual capacities. Former child soldiers have grown up away from their families and have been deprived of many of the normal opportunities or physical, emotional and intellectual development. Recovery and reintegration should take place in an environment that

⁵⁵ Machel, Graca, *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children*, (Hurst & Company, 2002) p 40

⁵⁶ Coalition to stop the Use of Child Soldiers, *A Research Guide for the Child Soldiers Report*, 2004, p

7.
⁵⁷ Ibid

fosters the health, self-respect and dignity of the child.⁵⁸ In many cases, reunification is impossible. Families may have perished in the conflict or may be untraceable. For some children, a transitional period of collective care may be necessary. Institutional approaches have proven ineffective, but one way to provide such care is through peer-group living arrangements that are strongly integrated into communities. This gives the child a feeling of belonging and safety.

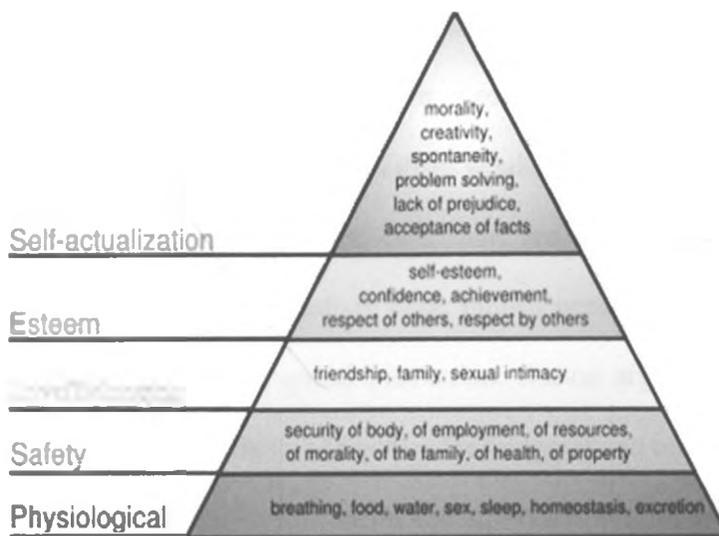
In conclusion, many writers examined have pointed out that there was an increased use of child soldiers during the Sudan conflict, either voluntarily or by force. The children were denied the opportunity to grow up as normal children. Many demobilisation exercises were conducted in South Sudan during the study period. But, even after the demobilisation, the children were not followed up properly to ensure proper reintegration in the communities where they came from as well as establishing proper reintegration programs.

1.8 Theoretical Framework

The human needs theory can be used to explain why children have actively participated in armed conflicts over the years. Maslow⁵⁹ came up with a hierarchy of needs in which he looked at all types of needs a human being may require. He started with the physical needs, which according to him were sought first, followed by safety or security needs, social needs, esteem needs and lastly self actualization. Maslow's hierarchy of needs have been represented as a pyramid with the more basic needs at the bottom, as can be seen from the diagram below.

⁵⁸ UN Convention on the Rights of the Child, Article 39, 1989.

⁵⁹ Maslow, A. *Toward a Psychology of Being*. (Princeton, N. J. Van Nostrand, 1968) p. 40



*Maslow's hierarchy of needs*⁶⁰

The current debate on human needs shows that relationship needs are sought first at the sacrifice of physical needs and even of life itself.⁶¹ Closely linked to Maslow's ideas is Burton's⁶² human needs theory. He posits that "certain ontological human needs will be pursued. These needs provide a power greater than police and military power, that they lead the individual and identity group to defy compliance requirements, and that they explain and even justify in some circumstances anti-social and violent behaviors."⁶³

This approach to internal conflict explains that parties or groups fight because they are denied not only their biological needs, but also psychological needs that relate to growth and development. These include peoples' need for identity, security, recognition, participation, and autonomy. According to Galtung,⁶⁴ such conditions may exist for a protracted period of time under conditions of structural violence. Structural violence is a term used to describe damaging deprivations caused by the

⁶⁰ Maslow, A. H. *A Theory of Human Motivation* Originally Published in *Psychological Review*, 50, 1943, pp 370-396.

⁶¹ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 36.

⁶² *Ibid*, p 32.

⁶³ *Ibid*

⁶⁴ Galtung J. 'Violence, Peace and Peace Research' *Journal of Peace Research*, Vol 6, No3 (1989) pp. 167-186.

nature of social institutions and policies. The origins of structural violence are the policy and administrative decisions that are made by some and which adversely affect others. If human needs are not satisfied there would be costly conflicts.⁶⁵

Certain social and economic conditions are essential for the fulfillment of human needs. The struggle to satisfy basic human needs is a key motivating factor behind human behavior and social interaction. Burton argues that basic needs are ontological,⁶⁶ whereas interests and values are temporal and historically determined.⁶⁷ Poverty, economic inequality and social injustice can often be conceptualized in terms of obstacles to meeting basic needs and often give insurgents in countries like Sudan a basis to agitate for change, sometimes by violent means. This theory provides a plausible explanation of why parties or groups want to wage war against one another and hence the involvement of children.

Terrell⁶⁸, another human needs theorist, argues that one of the primary causes of protracted or intractable conflict is people's unyielding drive to meet their unmet needs on the individual, group, and societal level. For example, the South Sudan conflict involves the unmet needs of identity and security. Countless South Sudanese feel that their legitimate identity is being denied them, both personally and nationally. The South Sudanese unmet needs directly and deeply affect all the other issues associated with this conflict. Consequently, if a resolution is to be found, the needs of South Sudanese identity and security must be addressed and satisfied on all levels.

⁶⁵ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 32

⁶⁶ Ontology is a branch of philosophy. It involves the logical investigation of the different ways in which types of things (ie physical objects, numbers, abstract concepts, etc) are thought to exist, and the nature of various kinds of existence.

⁶⁷ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) Chapter 4.

⁶⁸ Terrell A. Northrup, "The Dynamic of Identity in Personal and Social Conflict," in *Intractable Conflicts and their Transformation*, ed. Louis Kriesberg, Terrell A. Northrup and Stuart J. Thorson (Syracuse, New York: Syracuse University Press, 1989), pp 55-82

From Galtung, Burton and Terrel's human needs argument it can well be argued that deprivations like political and religious freedom that have been subjected to the people of South Sudan, have led to the present conflict. This conflict has led to the recruitment of children to supplement the fighting forces so as to demand their unmet needs from GOS.

1.9 Hypotheses

1. Participation of children in armed conflicts greatly affects their social development
2. Participation of children in armed conflicts leads to their improved social development.

1.10 Methodology of the Research

This section will give a description of the setting in which the research will place, the research design that will be employed, the study area, the target population, sample size and sampling procedures, the research instruments that will be used , procedures of data collection, and data analysis and presentation.

1.10.1 Research Design

The study is both a survey and secondary data research. The research will collect data from a population of demobilized child soldiers, their parents or guardians, teachers, village heads and military personnel through interviews to determine their present condition after their role in the armed conflict. The research will also rely on textual analysis to find out from the many international human rights and humanitarian conventions and treaties developed overtime to safeguard and

protect children and how these apply in the South Sudan context. Materials written and researched by scholars and NGOs working in the area of child protection will also be extensively used.

1.10.2 The target population

The target population will consist of former child soldiers, their parents or guardians, teachers, village heads and military personnel.

1.10.3 Study area

The study will be carried out in Kajo Keji County, Central Equatoria region, South Sudan. Kajo Keji County was selected because there was intense fighting during the year 2001 and 2003 and many children were actively involved in the conflict. There are so many former child soldiers who were demobilized during the period 2001 and 2003. The intense fighting between the years 2001 and 2003, led to mass recruitment of child soldiers and intense displacement of the local population.

Kajo Keji County is bordered by Uganda to the south, Yei County to the west, Juba County to the north and the River Nile to the east. It has an estimated population of 246,329.⁶⁹ The population in Kajo Keji County predominantly comprises the *Kuku* ethnic group. The area is also settled by other tribes as a result of internal displacement.⁷⁰

1.10.4 Sampling and sample size.

Purposive sampling will be used to select a sample size. The reason for selecting this sample method is that all the child soldiers seem to exhibit the same

⁶⁹ Sudan Relief and Rehabilitation Commission, June 2008.

⁷⁰ Sudan Transition and Recovery Database, Kajo Keji County, Version 3, August 2005, p 1

behavioral characteristics because it is the same homogeneous group. This method will enable the researcher to get the desired results. There are 47 child soldiers who were demobilized in 2002. Twenty out of the 47 will be interviewed. The number of child soldiers selected is 53 % of the total number of child soldiers who participated in the fighting in Kajo Keji County during war. Others to be interviewed include parents, military personnel, village heads and teachers.

1.10.5 Research Instruments

The schedule structured interview will be used. The number of questions and wording will be identical for all the respondents. Focussed interview will also be used. Nachmias and Nachmias⁷¹ state that although the encounter between the interviewer and respondents is structured and major aspects of the study are explained, respondents are given considerable liberty in expressing their definition of a situation that is presented to them. This type of interview will permit the researcher to obtain details of personal reactions and specific emotions from the respondents. The researcher will also use non-descriptive interview. There are no specified set of questions here. The researcher has a great deal of freedom to probe various areas and to raise questions during the course of the interview.

The interview questions are designed in such a way that it is possible to determine the effects of participation of the child in an armed conflict. The interview will seek to determine the process of reintegration of the former child soldiers. The interview schedule also will establish the measures instituted by either the government or any other body against future recruitment of children in to the military.

⁷¹ Nachmias, F.C and Nachmias D. *Research Methods in the Social sciences 5th ed*, (London, St martin's Press: 1996) p. 235

Secondary data from texts, NGO reports and other materials containing information on children will also be used.

1.10.6 Procedures for data collection.

For ethical reasons, the respondents will be informed of the purpose and nature of the study, and what their participation would entail before they consent to participate. There will be no inducement to their consent. Names of the respondents will be not revealed and where necessary code names will be used. Information provided will be treated with strict confidentiality.

1.10.7 Data analysis and presentation.

Qualitative methods of data analysis will be used to discuss the results. There will be a detailed discussion on the results.

1.11 Scope and Limitations of the Research

Data will be collected from former child soldiers, and stakeholders such as NGOs and local authorities. Some of the limitations that this researcher is likely to experience in carrying out this study include inadequate documentation on child soldiers in text books. There isn't enough secondary data detailing issues of child soldiers. Thus this researcher will rely heavily on material and information from NGOs working in the area of child protection and particularly the UN bodies. This material will be treated with caution because most reports by NGOs are usually congratulatory reports, lacking constructive criticism and in-depth evaluation.

The communities where this study will take place have very little education. Many years of fighting resulted in very little schooling for most of the population in

the sample size. This will affect the information respondents will provide. Ignorance of the importance of the study could lead to some people withholding vital information. The researcher could also be taken as any other aid worker coming to do a needs assessment for which results are never given.

Due to the sensitive nature of the study, it may not be possible to get the actual information required. For example the village heads may not be willing to divulge some critical information pertaining to recruitment of soldiers. Studies already carried out show that some chiefs and village heads were forced by the militias or the governments to provide a certain quota of soldiers from their areas. Children, being the most vulnerable were usually the sacrificial lambs. Such information may not be forthcoming from the village heads or the chiefs.

1.12 Chapter outline

- Chapter One: Justification and Objectives of the Study.
- Chapter Two: An Analysis on Social Development of children in Kajo Keji County, South Sudan.
- Chapter Three: An Analysis of the Legal Framework on child Protection in Sudan
- Chapter Four: An Examination of the Role of Children in Armed Conflict.
- Chapter Five: Conclusion and Recommendations

CHAPTER 2: An analysis on Social development of children in Kajo Keji County, South Sudan

2.1 Introduction.

The twenty-one year civil war in Sudan resulted in the loss of nearly eight percent (8%) of the country's population. An estimated two million Sudanese died from fighting, famine and disease, and more than four million people were internally displaced throughout the country or living as refugees in neighboring countries.⁷² The war also destroyed most indigenous infrastructure, disrupted normal trade and production systems, and traditional mechanisms to mitigate the effects of conflict. Formal and non formal educational opportunities traditionally lacking in South Sudan continues to be insufficient, consequently many Southern Sudanese youth went to seek educational opportunities in northern Sudan or in the refugee camps in the bordering countries.

This chapter will examine the state and social development of children in South Sudan during the period between the year 2002 and 2005. It will highlight the state and living conditions of children in Southern Sudan during this war period as well as the relationship between war and children and how this contributed to their circumstances and affected their social development. Whether the needs of children, as explained by Maslow's hierarchy of needs⁷³ and Burton's human needs theory,⁷⁴ were met or not will be investigated. .

2.2 The state of children in Kajo Keji County

Growing up of children in Kajo Keji County, an environment that was endemic with war was very difficult. International Crisis Group affirms that tactics including

⁷² USAID, Complex Emergency Situation Report 2001, p. 4

⁷³ Maslow, A. *Toward a Psychology of Being*. (Princeton, N. J. Van Nostrand, 1968)

⁷⁴ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 36.

indiscriminate aerial bombardment, the use of famine as a weapon, forced displacement and support for paramilitary forces engaging in the slave trade were routine.⁷⁵ All these activities affected children in a very negative way as discussed in Chapter 4.

Children could not run as fast as the adults to escape the aerial bombardments. They could not understand the sign of attacks as adults and could not know when there was danger unless they were told. People could rush to bomb shelters and fox holes to hide on hearing the sound of the Russian made *Antenov* airplane which was used for bombing. On seeing the airplane, the children could get excited and come out to stare at it instead of running to the designated areas for safety. They had to be warned of the danger posed by that airplane and asked to run for safety. If this did not happen, they ended up being killed. The same is echoed by Brett and McCallin⁷⁶ about the ignorance of the dangers exposed to children. They say that one commander is quoted to have said that “when there is shelling, the younger ones forget to take cover. They get too excited. They have to be ordered to get down inside the bunkers”.

The period between 2002 and 2005 is significant because the war had been going on for 21 years. During this period many children were being freed from the fighting forces. This was the height of the peace negotiations between GoS and SPLM/A. The agreement on cessation of hostilities between the Government of Sudan and SPLM/A⁷⁷ brought with it the kick starting of the peace negotiations, which culminated in the signing of the CPA.⁷⁸ Hence there was no major fighting taking

⁷⁵ ICG, *God, Oil and Country* (Brussels, International crisis Group press, 2002) p. 4

⁷⁶ Brett R. and MacCallin M. *Children, The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 128

⁷⁷ On October 15th 2002 the Government and the SPLM/A signed an MOU, which called for a complete cessation of hostilities for three months, as well calling for unimpeded humanitarian access in South Sudan.

⁷⁸ For more details see The Comprehensive Peace Agreement (CPA) signed on 9th January 2005 between the Government of the Republic of the Sudan (GoS) and the Sudan Peoples' Liberation Movement/Army (SPLM/A)

place during the negotiation period. The people now had time to pause and take stock of the gains and losses of war. There was such a great realization that children's needs had been neglected. Children, having grown up in this civil war situation had lost so much. Adults had been busy fighting the war and had no time to pass on enough and appropriate social norms to the children

Skinner⁷⁹ has noted that historically, all societies have tended to recognize that their children represent the future. In small scale societies this is quite clear since daily life readily indicates that children are the human capital that perpetuates their cultures and languages. Not to have and rear children is seen as social death. It is to save themselves by responding to major environmental or socio-cultural imperatives that societies painfully sacrifice their young.⁸⁰

The community in Kajo Keji County value children a lot and see the future through them. A man's worthy in the society is measured by how well he can take care of his family. The reasons for which children were made to fight this war were well understood and quite unavoidable. The rebel movement had to marshal all the human resources and children could not escape this. The war by SPLA/M has been termed as just war and therefore children were made to believe that they were fighting a just war. As a result of the many years of fighting, most of the adults lost their lives in the war. So there weren't many people left to fight and this led to involvement of children in fighting.

In the South Sudan civil war, there was an increase in the number of child combatants during the last years of the civil war. The first reason for this is that South

⁷⁹ Skinner, Elliot P. *Child Soldiers in Africa: A Disaster for Future Families*. International Journal on World Peace, June 1, 1999. p. 2

⁸⁰ Interview with Geri Meling, A traditional rainmaker, Wudu, August 2007.

Sudan is not only the world's poorest country but it is also the least developed. Children voluntarily joined the military to escape hunger at home. Secondly, many of the youngsters who were abducted into the militias readily absorbed guerrilla training, just in order to survive. Many youthful combatants, lacking familial support, became brave and loyal fighters.

Skinner⁸¹ states that militia life offered the youth training and a livelihood in poor countries where educational opportunities and jobs were scarce. Comrades-in-arms often provided a family substitute. Secondly, technology also facilitated the rise in the number of child combatants. Battle kits are now light enough for a 10-year-old to handle. Cheap and efficient AK47s have flooded the continent in the last ten years. Finally, confusing war and play, child combatants are often heedless of danger and therefore put their lives in the line of danger. Groups of youngsters in bush wars often operate on their own initiative for long periods in remote terrain, sometimes without even a radio to convey commands and make their own rules.⁸²

For children to develop into all-round persons, they should be encouraged to explore their environments. They should also be provided social opportunities such as playing with other children. This helps them build independence and self-confidence. According to a Danish Demining Group (DDG) staff member, most of the open spaces in South Sudan were mined during the war and are littered with Unexploded Ordnances.⁸³ Children had no playgrounds where they could wander the way they wanted. Parents did not allow them to play in the open spaces that were available for fear that they could be mined. Hence their social growth was curtailed as a result of being restricted. Their parents and guardians were very cautious on where

⁸¹ Skinner, Elliot P. *Child Soldiers in Africa: A Disaster for Future Families*. International Journal on World Peace, June 1, 1999. p. 2

⁸² Ibid, p. 2

⁸³ An Interview with Lobia K, Danish Demining Group, Wudu, June 2007

their children were playing and what type of play things they were using. This affected their social development to a very large extent. The efforts being put by UNMIS and DDG are geared towards clearing all the landmines and other UXOs. This will create a better world in which children can play undisturbed by dangers of mines and UXOs.

2.3 Children's needs and how they have been met in South Sudan.

Maslow⁸⁴ names the three basic needs of human beings as physiological (breathing, food, water, sex, sleep, homeostasis, excretion), safety (security of body, of employment, of resources, of morality, of the family, of health, of property) and love and belonging (friendship, family and sexual intimacy). All children require most of these needs. If denied, a child may not realize full potential in his or her development.

Child psychologists like Dolnick⁸⁵ argue that the early years of a child's life are crucial for social development. Therefore, it is important that every step necessary is taken to ensure children grow up in environments where their social needs are met. Children who grow up in environments where their social developmental needs are not met are at an increased risk for compromised health and safety, and learning and developmental delays. Failure to invest time and resources in a child when he/she is below 15 years may have long term effects on the foster care, health care, and education systems. Therefore, it is in the public's interest to ensure that children develop in safe, loving, and secure environments.

⁸⁴ Maslow, A. *Toward a Psychology of Being*. (Princeton, N. J. Van Nostrand, 1968) p. 30

⁸⁵ Dolnick, Edward. *Madness on the Couch: Blaming the Victim in the Heyday of Psychoanalysis* (New York: Simon & Schuster, 1998). P 40

According to Maslow,⁸⁶ Children, just like other human beings, need Safety and security. They have a desire for structure, predictability, stability, and freedom from fear and anxiety. They long to feel they belong and are being loved. They have a need to be accepted by others and to have strong personal ties with one's family, friends, and identity groups. They yearn for Self-esteem. This is the need to be recognized by one-self and others as strong, competent, and capable. It also includes the need to know that one has some effect on her/his environment. There is a desire among children for personal fulfillment. This is the need to reach one's potential in all areas of life.

Identity is an important need for children. Identity goes beyond a psychological sense of self. Burton⁸⁷ and other human needs theorists define identity as a sense of self in relation to the outside world. Identity becomes a problem when one's identity is not recognized as legitimate or when it is considered inferior or is threatened by others with different identifications.

Closely related to the need for identity is cultural security. Protection of the identity of the people of South Sudan by southerners themselves is one reason that caused the war. The Government of Sudan wanted to impose Islamic religion and Arabic culture and this led to massive resistance by the people of the south.⁸⁸ Just like any other group of people in the world, it is the South Sudanese culture that defines who they are.

Freedom to practice their language, traditions, religion, cultural values, ideas, and concepts is another need that children long for. This is the condition of having no physical, political, or civil restraints; having the capacity to exercise choice in all

⁸⁶ Maslow, A. *Toward a Psychology of Being*. (Princeton, N. J. Van Nostrand, 1968) p. 30

⁸⁷ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 36.

⁸⁸ Johnson, D. H. *The Root Causes of Sudan's Civil Wars* (Nairobi, East African Educational Publishers, 3rd impression, 2006) p. xvii.

aspects of one's life. Participation of children is important in community matters. This is the need to be able to actively partake in and influence civil society⁸⁹.

It is important to know and understand the tasks assigned to children in Kajo Keji County during this period and whether this was in conformity with their needs as espoused by Burton, Maslow and others. This understanding facilitates a comparison with the tasks assigned by the rebel movement. Most children in Africa setting are usually assigned roles that match their age. Herding cattle is one task that children are assigned to. Maendeh⁹⁰ gives a picture of how the South Sudanese children used to take up this task.

With one stick he stood on one end of the herd watching, as his companion had gone to bathe. They were always four of them, two on one end of the herd and two on the other end. Since the herd was big, some could have gotten lost if the herds boy were only on one end.

This activity does not require much energy to perform. All the children need to do is to ensure that the animals do not wander out of sight. The children love it and in the process they become responsible. As they grow up taking care of animals, they get to learn the importance of animals and wealth. This activity enables children to explore the environment and play games.

Fetching water and firewood is mainly the preserve of the girls. Small pots for carrying water are set aside for them. Girls usually accompany their mothers and guardians in the bushes to fetch firewood. These light duties are meant to teach the girls what their responsibilities would be once they grow up. It is more of a teaching exercise than work. It initiates them into womanhood. Cooking is also an activity preserved for girls amongst the Kuku ethnic community. The exercise again is meant

⁸⁹ Maslow. A. *A Theory of Human Motivation* Originally Published in *Psychological Review*, 50, 1943, pp 370-396.

⁹⁰ Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p. 17

to prepare them for adult life.⁹¹ It makes them feel that they belong to a community that cares for them and hence giving them an identity.

Sometimes boys aged over 13 years of age can be asked to clear land for cultivation and also do the actual cultivation. However, this is to a limited degree because people did not do a lot of farming due to the military activities going on at the time. Young boys could also be sent on errands. Maendeh⁹² says 'the children kidnapped were however less than the first prescribed number, almost all the villagers had not realized what was happening and so children were still being send on errands'. Participation of children in this one important activity creates a sense of belonging and makes them feel that they are part of the community.

2.4 Social Services in Kajokeji County, Southern Sudan.

Over 20 years of civil conflict and structural violence⁹³ have left South Sudan devastated. A protracted and complex conflict rooted in disputes over religion, ethnicity, resources, governance and self-determination has resulted in widespread destruction of community infrastructure, mass displacement, and gross abuse of human rights. As a result, Sudan is one of the poorest countries in the world, with a GNP per capita of less than \$300 and life expectancy of 56 years.⁹⁴

Although the final protocols for a peace agreement were recently signed, conflict continues in the Sudan's Darfur provinces, leading to one of the world's worst humanitarian disasters. Throughout Sudan and especially in the South, families have been torn apart, livelihoods destroyed, and rape, abduction and violation of basic rights have become commonplace. Health, welfare and education services were

⁹¹ Interview with Grace W., Leader, Limi Women Group, June 2007.

⁹² Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p. 17

⁹³ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 32

⁹⁴ Central Intelligence Agency: WorldFact book, <https://www.cia.gov/library/publications/the-world-factbook>, August 2007.

scarcely provided by NGOs and church based organization in the SPLM/A controlled South, while displacement and war exacerbated pre-existing ethnic tensions and resource conflicts over water and agricultural land. Attention is now being turned to the enormous recovery and rebuilding challenge for Sudan.⁹⁵

Generations of children in the Southern Sudan have never had sustained opportunities to access basic education, health care, clean water, or adequate food. Children across the country could easily join the militias and have easy access to guns. Aligning oneself to various rebel groups was predominant and for many young people, it represented the only livelihood.⁹⁶ Children learnt how to dismantle and assemble a gun at an early age. Guns were the most common things they could see around. In the few schools that existed during the period 2002 and 2005, there was not a single child in school who did not know how a gun looks like. In extra curricular activities, children would compose and sing songs that had messages of war and how it had contributed to their suffering. The plays they staged for their drama clubs depicted the miserable lives they were living as a result of the war.⁹⁷

Education plays a crucial role in the development of all countries. There is overwhelming and compelling evidence that indicates the positive impact of education on improving the well-being and reducing poverty and vulnerability of the poor households in the rural as well as urban settings. Collier⁹⁸ states that countries that have civil wars provide very little education for its children. He also found out that a country with higher percentage of its youth in schools reduces considerably its

⁹⁵ The Comprehensive Peace Agreement (CPA) signed on 9th January 2005 between the Government of the Republic of the Sudan (GoS) and the Sudan Peoples' Liberation Movement/Army (SPLM/A) lays a firm groundwork on how rehabilitation and rebuilding of South Sudan infrastructure will be carried out.

⁹⁶ ICG, *God, Oil and Country* (Brussels, International crisis Group press, 2002) p. 4

⁹⁷ Interview with Wani M, Longili Primary school, Wudu, July, 2007.

⁹⁸ Collier P. *Economic Causes of Civil Conflict and their Implications for Policy* (Washington DC, Mimeo 2000) p. 7

risk of conflict. This statement is true for Kajo Keji County in South Sudan. As a result of the war, schools became quite few and those that existed provided very sub-standard education, which did not excite the learners to stay in school.

It has been said that children are the future. Education is a critical element in the social development of children if a better future is to be realized. Education is also the citadel of any development initiative. Therefore it is true to say that children's education and development are complementary. A society that does not educate its children does not develop. The GoS has for as long as the war has been going on, neglected the South Sudan in the area of education. The GoS weaved Arabism and Islamism in the main political ideology of Sudan. The political ideology became a pillar on which all other areas of development were based.

Johnson⁹⁹ says that "the re-mergence of militant Islam as a major political and economic force, both nationally and internationally, and the qualifications this has placed on the rights of non-Muslims created disaffection among the South Sudanese". Islam was also made compulsory in the mainstream education system, a move that was met with resistance by the people of South Sudan. With the war and the unfavorable education, system, the south became quite disadvantaged and most children stayed out of school.

Provision of education by the government in some places in the south was therefore almost non-existent. Johnson¹⁰⁰ explains that 'the government invested little in education in the south and before long left it entirely on the hands of religious organizations'. These religious bodies and non-governmental organizations did not have the capacity to provide basic education to the large number of children living in the south. Therefore over the years a society of illiterate people emerged.

⁹⁹ Johnson, D. H. *The Root Causes of Sudan's Civil Wars* (Nairobi, East African Educational Publishers, 3rd impression, 2006) p. xvii.

¹⁰⁰ *Ibid* p. 15

In 2003, there were 24 primary schools in Kajo Keji County. Out of these, twenty schools went up to grade 5. The total number of pupils enrolled was 4,636, (1,836 girls and 2,800 boys).¹⁰¹ At the same time, there were 159 male teachers and 18 female teachers, making a total of 177 teachers. International Aid Sweden was the only NGO implementing basic education activities during this period. Most schools operating during this time were referred to as “bush schools” with outdoor classrooms and only 12% of the classrooms were permanent buildings made of bricks or concrete.¹⁰² Considerable destruction was inflicted on schools facilities and structures during the just ended civil war. The school syllabus was not standardized during the war. Some schools were using Uganda syllabus, while others used the Kenyan syllabus. The schools were faced with acute shortage of textbooks. Baseline survey carried out in 2003 shows that half of the primary schools had no books while only 30% had at most two textbooks.¹⁰³

Deng¹⁰⁴ says that Children who did not have textbooks ran a high risk of not attending school. This meant that they stayed at home either herding cattle or performing other household chores, which increased the risk of being recruited into the rebel movement. Having nothing to do they kept loitering the whole day or idling in the shopping centers where they were eventually press ganged and forced to join the rebel movement.¹⁰⁵ Deng¹⁰⁶ further states that most of the primary school teachers in Southern Sudan were poorly trained. Only 7% received college training and the rest either received some in-service training or were untrained completely. Besides the

¹⁰¹ UNICEF, *School Baseline Assessment Report, Southern Sudan*, 2003. p. 8

¹⁰² Deng, Luka Biong, *Education in Southern Sudan: War, Status and Challenges of achieving Education for All Goals* in Respect, Sudanese Journal for Human Rights, Culture and Issues of Cultural Diversity, 4th Issue, November 2006, p. 11

¹⁰³ UNICEF/OLS, *School Baseline Assessment Report, Southern Sudan*, Nairobi 2002. p.3

¹⁰⁴ Deng, Luka Biong. Op cit. 11

¹⁰⁵ Brett R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen. 1996) p. 67

¹⁰⁶ Deng, Luka Biong. Op cit p. 12

poor training, the teachers were poorly equipped with teaching and learning materials and other resources that are central for any meaningful teaching to take place. On top of these extreme poor learning conditions, the teachers were poorly motivated. They did not have any salary and the little assistance they got from the community was in form of food.

The community understood that education was important for their children and tried all they could to facilitate their learning. According to a survey conducted by UNICEF¹⁰⁷, schools in Kajo Keji County also did not have basic and essential facilities and services that could create a conducive environment for learning. They neither had toilets nor any safe drinking water within their vicinity. The few schools available were also quite far from the children's' homes. Lack of school fees, domestic chores, productive work, lack of clothes and food were other factors hindering children from attending school. With this kind of scenario, it was extremely difficult to attract children in schools. With nothing to do, some preferred joining SPLM/A voluntarily to fight a regime that had contributed to the poor state of education in Kajo Keji County.

The youth aged between 14 and 18 years were also very much disadvantaged in this community. There were no vocational skills centers for them. Primary schools could be available but this age group would feel uncomfortable studying among children who were quite young. The youth therefore lacked the ability to support themselves due to unemployment. Skilled staff to guide, mobilize, and develop skilled training for them was lacking. There was a high number of school drop outs especially girls. The culture and traditions of this community sometimes forced girls to drop out

¹⁰⁷ UNICEF/OLS, *Multiple indicator cluster survey Results of Southern Sudan*, Nairobi 2000. p 87

of school so that they could get married¹⁰⁸ particularly to men serving in the military.

The conditions of household and community in general played a big part in determining not only access to education but also ensuring quality education for children. The primary schools that existed during this time in Kajo Keji County were initiated, managed and maintained by the local communities. This key role played by communities in the county by the local communities shows the value they attached to education. The long history of deprivation and denial of accessing basic services particularly education made South Sudan and particularly Kajo Keji be described by Deng¹⁰⁹ as ‘a nation thirsty for education and learning’.

Every primary school in Kajo Keji had a community or parent’s group involved in its management. Besides building these schools, the local communities maintained them, made efforts to pay teachers incentives, even with their meager resources, and paid school fees for their children. The responsibilities undertaken by the community to ensure education for their children show how much they would have loved to have their children have a better education. This made them turn against the government for failing in its responsibility of providing this much needed service.

The children themselves were very eager to go to school and learn. In fact education was used as a bait to recruit them as child soldiers. Maendeh¹¹⁰, a former child soldier, depicts a picture of how he and a group of boys were recruited in the SPLM/A.

‘In less than five minutes other children who were on the riverbank came after noticing the weird crowd. They came to see for themselves what these gunmen

¹⁰⁸ Development Assistance Technical Team and SPLM/A, Kajo Keji County Strategic Development Plan, 2004 – 2008, p.43

¹⁰⁹ Deng, Luka Biong, *Education in Southern Sudan: War, Status and Challenges of achieving Education for All Goals in Respect*, Sudanese Journal for Human Rights, Culture and Issues of Cultural Diversity, 4th Issue, November 2006. p 13

¹¹⁰ Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p.18

were conversing about with Kerjock. After they had assembled enough children, the soldiers addressed them in general. “We are collecting the children in this village for we want to take you to school,” said one of them. This was a good idea as far as the kids were concerned for almost all of them had not been to school. They treasured knowledge more than fooling around herding cattle; which now seemed boring and time-wasting even though it had been part of their lives.

The boys had come to learn that education was quite important in their lives. There being nothing else to do in the villages, herding cattle was all they knew. Anything offering them an alternative into what they had grown up thinking was the best way of spending their time was welcome. The fact that education was used to bait is a clear illustration that education was, and is still, valued very much in South Sudan.

Health services in Kajo Keji County were limited during the time the war was taking place. During this time South Sudan was operating a three-tier health care system. The first tier was the Primary Health Care Unit (PHCU), the second was the Primary Health Care Center (PHCC) and at the top were the referral hospitals. Most of these were supported by NGOs. The PHCUs were run by Community Health Workers and Traditional Birth Attendants. The Community Health Workers were only attending a nine-month public health course and the Traditional Birth Attendants a two to four week training course.¹¹¹ The PHCUs were provided health education, malaria tablets, oral rehydration salt for diarrhea in children, and other very basic drugs. UNICEF used to provide medical kits to areas that did not have NGOs operating there. The kits used to contain basic drugs for treatment of diseases such as malaria, dehydration and skin rashes.¹¹² In practice, the three-tier classification was non-functional due to logistical and staffing constraints. In South Sudan, there were over 20 general hospitals, which provided major medical, laboratory and surgical services.

¹¹¹ Interview with Ali Mohammed, Trainer with IMC, Kajo Keji, July 2007.

¹¹² Richer M. UNICEF, *Overview of the Health Situation in south Sudan*, 2003 p. 7

In Kajo Keji County, there was one hospital run by International Medical Corps, 29 Primary Health Care Units and 4 Primary Health Care Centers within the county.¹¹³ The American Refugee Committee and Sudan Health Association supported these health facilities. Besides the county is large and most areas were inaccessible by road and hence it was difficult for people to travel long distances to seek medical treatment. This one hospital was inadequate in serving the large number of people in Kajo Keji County. Sphere standards recommend one referral health facility per 50,000 people.¹¹⁴ Malaria, sleeping sickness, diarrhea and respiratory tract infections were the most common diseases among children under 15 years in Kajo Keji County.

Provision of health services has been a major concern for the people of Kajo Keji County. The most affected of the population were the children. The children grew up in an environment where health services were very limited. They were let to know that it is their government (GoS) that was the cause of all these. The community therefore mobilized all the resources available and started waging war against the Khartoum government. Children were involved because among other factors, they were denied good health services among other social services and as Burton explains 'if needs are not met there would be costly conflicts'¹¹⁵.

Kajo Keji County has been an area of self-sufficiency in food production. However during the year 2000 and 2003, the war disrupted the food production in the county. People could not cultivate large pieces of land because they knew that the crops would be destroyed by the enemy. People were always on the move and did not think much in preparing large pieces of land because they knew the enemy would

¹¹³ Information provided by Sudan Relief and Rehabilitation Commission, Wudu, June 2007.

¹¹⁴ The Sphere Project, *Humanitarian Charter and Minimum standards in Disaster Response*, Oxfam, Oxfam Publishing, 2004 p. 259

¹¹⁵ Burton J. *Violence Explained* (Manchester: Manchester University Press 1997) p. 36

come and destroy them as well as displace the population. The traditional economy of the Kuku, the predominant ethnic community in Kajo Keji, was basically subsistence agriculture. The Kuku being hard working farmers and grew food crops such as millet, sorghum, maize, cassava, ground nuts, beans, simsim and sweet potatoes. These food crops were mainly for their own consumption although at times of good harvest they could sell the surplus.

The civil war denied children an opportunity to access social services in Kajo Keji. Even in areas where active civil war was absent, structural violence did exist.

2.5 Cultural practices among the Kuku of Kajo Keji County

Moncrieffe¹¹⁶ defines culture as the relationships among individuals within groups, among groups, and between ideas and perspectives. Culture refers to the cumulative deposit of knowledge, experience, beliefs, values, attitudes, meanings, hierarchies, religion, notions of time, roles, spatial relations, concepts of the universe, and material objects and possessions acquired by a group of people in the course of generations through individual and group striving. It is the prism through which we not only understand people today, but also yesterday, tomorrow, and far into the future.

The Sudan civil war, which raged for 21 years between GoS and SPLM/A has laid to waste lives and livelihoods of millions of people, destroyed physical infrastructure, the economic base, as well as caused the disintegration of social fabrics, which in turn has caused a serious implications on the traditional value systems, norms and coping mechanisms. The resulting effects have been insecurity,

¹¹⁶ Moncrieffe J. M. *The Role of Culture in Development*, Overseas Development Institute, Prepared for the Commission for Africa, November 2004, pp. 3- 7

absence of rule of law and order, lack of basic social services, and severe food shortages.¹¹⁷

Deng¹¹⁸ posits that ‘the roots of a human being are his/her family legacy, moral values, and cultural heritage. A person reinforced by these attributes is more likely to survive the turbulence of radical transformation, while a person denied these essential ingredients can easily go adrift’. The culture of a community like that of the Kuku of Kajo Keji, teaches a child very early in age the genealogy of his/her family, the name of the clan, the village, the section and the tribe. According to the Kuku, a person who does not preserve his or her culture loses touch with reality. Among the Kuku norms and values were developed from what was thought would serve the community better and particularly children.

The Kuku, the most predominant tribe in Kajo Keji, was organized around clans that were headed by clan heads. The clan heads were usually hereditary and in most cases leadership of the clan fell on the elder son of the first wife. In Kuku culture, the first wife was accorded more respect because she was considered the regenerative foundation of the family. Also, the first son was given special respect on the ground that he was the child of true marriage.¹¹⁹ Following the colonization of the South Sudan, the Anglo-Egyptian administration and subsequent Northern Arab/Muslim dominated administrations created and imposed chieftainships amongst the Kuku. The chiefs and a council of elders became responsible for administration and the trial of cases. In traditional Kuku, most cases were settled through

¹¹⁷ Development Assistance Technical Team and SPLM/A, *Kajo Keji County Strategic Development Plan*, 2004 to 2008, p. 1

¹¹⁸ Akol, Jacob. J. *I will Go the distance*, (Nairobi, Paulines Publications Africa, 2005) p.12

¹¹⁹ Interview with chief of Wudu, June 2007

compensation. But until quite recently this never included cases of murder. Cases of murder were settled by killing in retaliation.¹²⁰

The Kuku society was not strictly divided into social classes. Family relations were very important in the social life of the Kuku. Elders were the guardians of the clans and they had the special duty of reciting folktales or legends and keeping the lists of ancestral lineages and important places and events. Veneration of ancestral spirits was also an important social function in Kuku society. On such occasions food and drinks were provided and served by young girls and this was normally accompanied by much celebration and jubilation. The young men of the clan were normally responsible for keeping security during such occasions. It was believed that such duties inculcated good values to the young people and prepared them for adult life.¹²¹

Marriage among the Kuku tribe was of great value. Just like any other community, it was seen as a way of procreation and continuation of life. Girls in this community were viewed as people who would bring great respect to the family and the community as whole. Not so much was attached to the wealth that the girls would bring home as is the case with other tribes of Southern Sudan, e.g. the Dinka. A girl of 15 years among the Kuku tribe was regarded as ripe for marriage. Marriage traditions were long and elaborate. This was intended to ensure that the couple understood quite well the reasons why the ceremony was being carried out and why it was important. The more children a couple had, the more respect was accorded to it. Many children had perished as a result of the war and therefore the newly married were encouraged to have as many children as they could. Issues of how the children would be fed did

¹²⁰ Ibid

¹²¹ Ibid.

not arise in this community. It was not surprising to go to a home and find about six children whose age ranged between a few months and six years.¹²²

The Kuku had a culture that was rich. Children learnt values and norms that were upheld by the community and those that were considered paramount in nurturing the young people. The norms and values discussed above were passed on from generation to generation. In his foreword to Akol's¹²³ book, Francis Deng presents a picture of the resilience and courage that South Sudanese boys could show. A study carried out by German doctors on the lost boys of Kakuma Refugee Camp documented the extent to which the lost boys had been traumatized by their experience and what lasting damage they had suffered as a result. In seeking to explain this surprising finding, the study argued that the boys had come from a strong cultural environment that had inculcated in them early in life the values and principles that fortified them against their subsequent travails. Some of the lost boys came all the way from Kajo Keji County.

The Kuku maintained a great sense of pride in their culture and traditional values and ties. Every child was expected to learn and practice these traditional norms and values. The norms and values influenced the way a child developed and lived. Communities like the Kuku strongly believed in defending their cultural rights if and when threatened by outsiders. The community members did not want a different language and religion imposed on them. If the children acquired a new language and religion it would mean natural death of the Kuku culture and tradition. This is one reason why the Kuku joined other communities in southern Sudan to say no to the Government of Sudan intention of Arabising and Islamizing the south.¹²⁴

¹²² Ibid

¹²³ Akol, Jacob. J. *I will Go the distance*, (Nairobi, Paulines Publications Africa, 2005) p. 12

¹²⁴ Interview with Degu D, Traditional herbalist, Wudu, Kajo Keji county, June 2007

2.6 The role of NGOs and SRRC on child protection

During the period between 2002 and 2005, there were four international NGOs and one indigenous NGO in Kajo Keji. American Refugee Committee provided services in health, water and sanitation. International Aid Services provided education while health was supplemented by Mediciens sans Frontieres-Switzerland. Norwegian People's Aid had services in food security and community development and Sudan Health Association, a local NGO provided health services.¹²⁵

Most of the activities implemented by NGOs here had a direct or indirect impact on children. Although the schools supported by IAS, the only NGO working in the area of education, were few, some children were able to acquire some education. Majority of the children in Kajo Keji did not have access to schooling and hence the reason why they chose to join the rebel movement. Being in the barracks to them was better than sitting at home doing nothing. Health services provided were inadequate. The children came to learn that the current health situation in Kajo Keji was caused by the government of Sudan. Food was also scarce. People did not have the opportunity to settle in one location for long. They kept on moving from one place to another as a result of frequent attacks by the government forces.

All these NGOs operated under Operation Lifeline Sudan. Operation Lifeline Sudan is an umbrella body of five UN agencies and over 40 participating Non-Governmental Organizations. Its main headquarters are in the northwestern Kenyan town of Lokichoggio near the Sudanese border. OLS was set up in 1988 after the government failed to respond to the great famine that occurred in the same year in different parts of South Sudan. Over 250,000 people died in the famine, including women and children. It was decided that a new framework was needed to provide

¹²⁵ Sudan Transition and Recovery Database, Kajo Keji County, Version 3, August 2005 p. 22

relief to Sudan.¹²⁶ The framework that OLS worked within was designed to prevent such terrible famines from occurring again. Important in its operations was famine prevention by negotiated access. The Government and SPLM/A agreed to OLS thinking that access should be provided so that people could be supplied with food and other lifesaving necessities. Relief flights from Lokichoggio would only operate with the consent of both parties to maintain the UN's strict neutrality.

Access to certain areas could only be denied if there were certain major security concerns.¹²⁷ This policy turned out to be open to abuse by both sides. Every month OLS could put in a flight request to transport aid, but access to certain areas was frequently denied according to the aims of the warring parties. The oil rich areas of Upper Nile were purposely depopulated by the Khartoum government to safeguard its output. Civilians were targeted and OLS flights only permitted to neighboring regions, encouraging people to flee to these areas to receive aid. This movement of people was too difficult and hard to bear for children. Many of them died on the way and those who could make to the intended destinations got there very malnourished.

The SPLA/M also could manipulate OLS.¹²⁸ Aid was a source of political power and the rebels sought to control their civilian constituency by controlling their access to aid. They frequently purposefully moved whole populations to vulnerable locations to attract more relief, which was then heavily taxed.¹²⁹ Most of the food given as aid was being stolen by the rebel groups. OLS manipulation by the rebel groups led to severe criticism and it has been seen by many as having become complicit in extending the suffering of the people of South Sudan. This left children with little to eat. Whenever populations were moved and assembled in hunger stricken

¹²⁶ Clammer, P. *Sudan, The Bradt Travel Guide* (London, Bradt Travel Guides Ltd, 2005) P. 226

¹²⁷ Ibid

¹²⁸ Interview with Major Major Manase, SPLM/A Commander, Yei, South Sudan, June 2007

¹²⁹ Ibid

areas, children suffered most when attacks by the Government of Sudan took place. Though NGOs, under the umbrella of OLS tried very hard to provide food to communities in Kajo Keji County, their efforts were frequently frustrated. This led to a lot of suffering for the children. They suffered from malnutrition and other related diseases.

Sudan Relief and Rehabilitation Commission (SRRC) has been the main development arm of SPLM/A. All the NGOs work with SRRC in the implementation of their projects. The aim of establishing SRRC was to solicit and coordinate delivery of humanitarian assistance to avert starvation and reduce diseases caused by malnutrition.¹³⁰ Its main function was to coordinate relief, rehabilitation, reintegration, repatriation and resettlement. SRRC was also responsible for coordination of NGO operations in the county.

The role SRRC has played on the lives of children was very minimal during this period. The main reason was that SRRC lacked the resources to do any meaningful work for children. It did not have qualified personnel to manage and supervise activities related to children's affairs.¹³¹ Its impotence in doing anything due to lack of resources led to many children's suffering and sometimes, death. The welfare of children solely rested on the community and the NGOs implementing projects here in Kajo Keji. SRCC lacked adequate financial resources, logistics support, and was grossly understaffed. The members of staff lacked knowledge and skills on areas they were supposed to be working in. This made it very impossible to address children's needs in Kajo Keji County.

In conclusion, growing up in Kajo Keji County for children was quite difficult. Children had very minimal access to basic needs. The communities inculcated values

¹³⁰ Development Assistance Technical Team and SPLM/A, *Kajo Keji County Strategic Development Plan*, 2004 – 2008, p. 1

¹³¹ Interview with the SRRC Secretary for Kajo Keji, July 2007

and principles that were upheld in the culture and traditions of the people. However this was violated by the militias who recruited the children in the fighting forces. Children received very little help from the SRRC and the NGOs working in the region.

CHAPTER 3: An Analysis of the Legal Framework on Child Protection in Sudan.

3.1 Introduction.

This chapter will examine in greater detail the existing legislation on children both internationally and nationally. It will examine the existing laws on child protection and determine whether they were applied during the civil war. Issues on customary law will also be highlighted and how relevant this was in child protection. Of particular interest will be the issues in Sudanese law regarding the protection of children. The chapter will analyze whether international legal instruments, to which Sudan is a signatory to, were followed or not during the civil war.

Shaw¹³² states that ‘law is that element which binds the members of the community together in their adherence to recognised values and standards. It is both permissive, in allowing individuals to establish their own legal relations with rights and duties, as in the creation of contracts, and coercive, as it punishes those who breach its regulations. Law consists of a series of rules regulating behaviour and, and reflecting to some extent, the ideas and preoccupations of the society within which it functions’. International law is primarily formulated by international agreements, which create rules binding upon the signatories, and customary rules, which are basically state practices recognised by the community at large as laying down patterns of conduct that have to be complied with.¹³³

Protection is of overriding importance in that it refers to the necessity of ensuring the physical and legal safety and well-being of children affected by conflict.¹³⁴ Fundamental human rights are at the centre, and it is on this basis that efforts related to both conflict resolution and material assistance are developed. Child

¹³² Shaw, M.N, *International Law*, 4th Edition, (Cambridge: Cambridge University Press, 2004) p. 1

¹³³ *Ibid*, p.6

¹³⁴ Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004. p 17

protection¹³⁵ refers to all activities aimed at ensuring full respect for the rights of the child as set out in the relevant human rights instruments and international humanitarian law. These legal instruments have all been ratified by nations. International law recognises the sovereignty of states in conduct of its affairs within its borders. However such sovereignty should not be injurious to the lives of children. It is against this background that international laws have been enacted to protect the interests of children.

3.2 Key law instruments related to child protection.

Both the UNCRC and the ACRWC adopted four main principles in protecting the rights of the child. These are:

Non discrimination:¹³⁶ The Committee on the Rights of the Child has said that legislating against discrimination of children is not enough; proactive measures ought to be instituted to combat it. Emphasis should be on changing the legal framework, power structures, attitudes amongst those who discriminate, the physical environment and resources so that all children can be served equally.

The situation of girls in conflict in Kajo Keji County in relation to the law was worse than that of the boys because society discriminates against females in general. Women have no voice in Kajo Keji County community. Their role is to primarily serve the interests, needs and demands of men. Boys who came into conflict with the law were tolerated to a certain extent, whereas girls doing so were not tolerated at all. Girls suffered more stigmatization when offences were committed by or against them.

Survival and Development:¹³⁷ Besides the right to live, children are granted the right to survival and development to the maximum extent possible. This is closely

¹³⁵ Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004. p 17

¹³⁶ United Nations Convention on the Rights of the Child, November 1989, Article 2.

¹³⁷ United Nations Convention on the Rights of the Child, 1989, Articles 6,18, 23, 27, 29.

Survival and Development:¹³⁷ Besides the right to live, children are granted the right to survival and development to the maximum extent possible. This is closely linked to children's economic and social rights. In the Kajo Keji context, the sanitary and health care facilities were poor and the food inadequate. These conditions had a negative impact on child soldiers' physical and mental development. The situation was worsened by the fact that personnel working in remand homes did not have the minimum training that could help them deal with child soldiers.

The UNCRC provides that institutionalization should be used as a measure of last resort and for the shortest possible period of time. However, delays in trials and long periods in custody were the practice during the war. Child soldiers put in custody for having committed offences in Kajo Keji County were deprived of essential necessities needed for their social development.

Best interests of the child:¹³⁸ This principle represents a major building block in the philosophy of the UNCRC that children are both competent with the right to influence their lives and vulnerable and in need of special support and protection. Many juvenile justice systems did not promote the best interest of the child. The judges, lawyers, police, and social workers in Kajo Keji County lacked specific skills for handling children in conflict with the law while respecting their rights.

Cases of children in conflict with the law were handled by adult courts that did not take into consideration the child's level of maturity or developmental capacity. Adult courts did not give the children the appropriate opportunities to express their own opinions. In many cases, decisions affecting children were made by judges who had little knowledge of children's rights. Children were rarely given access to legal

¹³⁷ United Nations Convention on the Rights of the Child, 1989, Articles 6, 18, 23, 27, 29.

¹³⁸ United Nations Convention on the Rights of the Child, 1989, Article 3, 9(1,3), 18, 20(1), 21. African Charter on the Rights and Welfare of the Child, OAU Nov. 29, 1999, Article 25.

Participation:¹³⁹ This places an obligation on state parties to ensure that girls' and boys' views are sought and considered in all matters that affect their lives. Decision making bodies must listen to these views and take them into account in accordance with the child's age and maturity. The concept of the developing capacities of the child is one of the key features of this article.¹⁴⁰ This means that age and maturity of the child should be taken into account when determining the scope and self-determination and the freedom of the child. In order to be able to make decisions, children have the right to relevant information provided in a form they can understand.

The rights of children are most respected and the causes for their violations best tackled when they are consulted in matters affecting their rights and interests. Juvenile justice systems often fail to do this. Officials carried out interrogations and interviews of children suspected of breaking the law in an atmosphere that did not allow the child to express his/her opinion freely. Child soldiers in Kajo Keji County were to be seen, given instructions and not to be heard at all.

There are various international legal instruments that protect children against any harm. Most of the countries have agreed to and ratified these instruments. The greatest obstacle is that countries have not followed them. They have defied and flouted them with impunity. Sudan is one country that did and continues to do so. The UN General Assembly adopted the Convention on the Rights of the Child in 1989 and nearly every country is a party to it with exceptions of Oman, Somalia, and United States of America and United Arab Emirates.

The UNCRC¹⁴¹ states that:

¹³⁹ United Nations Convention on the Rights of the Child, November 1989, Article 23.

¹⁴⁰ Article 38, United Nations Convention on the Rights of the Child, 1989

¹⁴¹ United Nations Conventions on the Rights of the Child, 1989, Articles 38 (1,2,3)

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavor to give priority to those who are oldest.

This article incorporates international humanitarian law into international human rights law. Brett and McCallin¹⁴² observe that Article 38 (1) of the UNCRC reinforces the obligations of states to abide by the international humanitarian law by which they are already bound. As such its value is in making the explicit link between the two branches of international law affecting the human person and in creating the possibility that the Committee on the Rights of the Child, the supervisory body established by the convention, could examine states' compliance with their obligations under international humanitarian law, at least in so far as relevant to the child.

UNCRC¹⁴³ places an absolute obligation on the governments not to recruit children less than 15 year of age into their armed forces. This should also cover any organized armed group which is under the control of the government or which could be under government control and not just the armed forces. It should cover any paramilitary forces, local militias, civil defense committees and any other group which the government encourages or allows. Any group which falls under this category should have its recruitment regulated by the government in conformity with article 38 of UNCRC. Article 38 has its own limitation in that it is only binding on

¹⁴² Brett R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 128

¹⁴³ United Nations Conventions on the Rights of the Child, 1989, Articles 38 (3)

state parties i.e. the governments and not the armed groups. It does not spell out what the responsibilities are for armed groups in respect to child protection.

The Convention embodies a set of norms on how children should be treated and represents a consensus on the minimum rights which must be guaranteed to children. Brett and McCallin¹⁴⁴ state that

The text of the Convention on the Rights of the Child provides an excellent framework for advocacy on behalf of children, regardless of the discipline from which the rights of the child are being approached. It is equally useful to psychologists, educators, religious leaders, lawyers and parents...Each time the standards of the Convention are invoked in practice; it strengthens its importance in international law.

The Convention contains a wealth of laws on how children should be treated and the conditions that should be put in place for them to develop socially. Children participate actively in the process of development. Wherever they are they continue to develop physically, emotionally, psychologically and socially. The spirit of the UNCRC is to promote the well-being of all children across the globe.

Concerning children in areas of conflict, the Optional Protocol to the Convention on the Rights of a Child was adopted in February 2002. Globally accepted, the Protocol establishes that no state or armed group should ever recruit or use hostilities against anyone under the age of 18. Also, no person under the age of 18 should ever participate in direct military activity.¹⁴⁵ Even though open to amendments, the protocol is the first building block towards complete understanding of international norms involving children in areas of conflict. This protocol applies to all countries affected by armed conflict. It puts armed groups on the spotlight and highlights their responsibilities towards children within their environment.

¹⁴⁴ Brett R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 153

¹⁴⁵ Optional Protocol to the Convention on the Rights of a Child, Article 1, 2 and 3, 2002.

Other important UN framework documents include Security Council Resolutions.¹⁴⁶ The work of the Optional Protocol involving children in armed conflict, urged all parties to conflict to ensure the protection of children, and urged all parties to take special measures to protect girls from rape and gender-based violence.¹⁴⁷ The deliberate targeting of children in situations of armed conflict is condemned. The work of the Special Representative of the Secretary-General for Children and Armed Conflict requested that parties in conflict include provisions for the protection of children in peace agreements, and asked parties to consider including child protection staff in peace and field operations.¹⁴⁸

Member states were urged to consider appropriate legal, political, diplomatic, financial, and material measures, in accordance with the Charter of the United Nations, in order to ensure that parties to armed conflicts respect international norms for the protection of children.¹⁴⁹ Most recently, Resolution 1460 supported the Special Representative's call for "an era of application" concerning norms and standards for the protection of children in armed conflict. It also recognized the urgent need to include child advocates in more peacekeeping and field missions.¹⁵⁰

Regional organizations and UN committees have drafted a number of other relevant documents, including the African Charter on the Rights and Welfare of the Child, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and the International Labour Organization (ILO).¹⁵¹ The African Charter on the Rights and Welfare of the Child

¹⁴⁶ UN Security Council Resolutions 1261(1999), 1314(2000), 1379(2001), and 1460(2003)

¹⁴⁷ UN Security Council Resolution 1261 (1999)

¹⁴⁸ UN Security Council Resolution 1314 (2000)

¹⁴⁹ UN Security Council Resolution 1379(2001)

¹⁵⁰ UN Security Council Resolution 1460(2003)

¹⁵¹ The International Labour Organization (ILO) Convention 182 of 1999

also highlights issues pertaining to children in armed conflict.¹⁵² Like the Convention on the Rights of a Child, State Parties were to protect the civilian and child population in armed conflict, help refugees and IDPs through cooperation with non-governmental organizations, and prevent the abduction and trafficking of children.

The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour¹⁵³ defined the worst forms of child labour as slavery including the sale and trafficking of children, the abduction of children to serve in armed forces, child prostitution, and work or illicit activities likely to harm the health, safety, or morals of a child. The ILO Convention talks about the steps governments that have ratified this convention should take in order to avoid further abuse of children. It talks against the use of child soldiers and defines such use as child labor. It says that 'all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict'.¹⁵⁴ The ILO convention sets 18 years as the minimum age for admission to employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety, or morals of young persons.¹⁵⁵

Several Geneva Conventions also pertain to the treatment of children in armed conflict. The Geneva Convention relative to the protection of civilian persons in time of war asks that parties to conflict endeavour to conclude local agreements for the removal of children from besieged areas, and requires that children be accorded special respect and protected against any form of assault. Other protocols have also

¹⁵² The African Charter on the Rights and Welfare of the Child, Articles 22, 23, and 29, 1989

¹⁵³ The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

¹⁵⁴ ILO Convention No. 182: Worst Forms of Child Labor Convention, 1999, Article 3(a)

¹⁵⁵ ILO Convention No. 138 on Minimum age, 1973.

asked that children under the age of 15 not to be recruited for any type of duty in the armed forces¹⁵⁶.

The Law of Armed Conflict is applicable in situations where children are involved in armed conflicts. It is a subset of international law, based on the Geneva Conventions, governing the conduct of military operations. The purpose of LOAC is to limit the effects of conflict, to protect non-combatants, to safeguard the rights of those injured, captured, shipwrecked, to lessen the destructiveness of war, to make the behavior of warring parties more predictable, and to make the establishment of peace easier. LOAC applies to the conduct of military operations even when war has not been declared and when only one party is a signatory to the Geneva Conventions.¹⁵⁷

To ensure that these international legal instruments are adhered to, a group of child protection practitioners met in Cape Town in April 1997. The core aim of the meeting was to determine who a child soldier is. This would make it easier for the international legal instruments to be applied more easily. The Cape Town Principles defines a child soldier as;

...any person under 18 years of age who is part of any kind of regular or irregular armed force in any capacity, including but not limited to cooks, porters, messengers, and those accompanying such groups, other than purely as family members. It includes girls recruited for sexual purposes and forced marriage. It does not therefore, only refer to a child soldier who is carrying or has carried arms'.¹⁵⁸

The definition of a child soldier presented here is holistic and makes it known to those implementing international legal instruments pertaining to the treatment of children who exactly a child soldier is.

Sudan has signed and ratified most of the international legal instruments which seek to protect both children and adults. Sudan is a party to the International

¹⁵⁶ The Protocol to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

¹⁵⁷ Law of Armed Conflict

¹⁵⁸ Capetown Principles and Best Practices, Cape Town, 1997. p 1

Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both ratified in 1986. It has also ratified or acceded to the Refugee Convention (1974), the International Convention on the Elimination of All Forms of Racial Discrimination (1977), the Convention on the Rights of the Child (1990), and the African Charter on Human and Peoples' Rights (1986). Also, Sudan is a party to the Geneva Conventions of 12 August 1949, which it acceded to in 1957, and has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1986).

Although Sudan has not yet ratified the Torture Convention, as a signatory, it is obligated under international law not to take any action which would contravene the treaty's purpose. Consequently, Sudan has affirmatively agreed, and is legally obligated, to promote and protect the rights of its people; these rights are not optional, but are mandated by international law.¹⁵⁹ The infringement of these conventions by the Sudanese government and the armed rebel groups goes against what they have agreed to abide by.

3.3 Customary law and child protection.

Among the Kuku community, a child was reared by the whole community. A child was brought up in a system that observed customary values and norms. Burke¹⁶⁰ defines custom as;

A rule of conduct obligatory to those within its scope, established by long usage. A valid custom has the force of law. Custom to the society is what law is to the state. A valid custom must be immemorial antiquity, certain, reasonable, obligatory, and not repugnant to statute law, though it may derogate from the common law.

¹⁵⁹ Martin S. and Apple B. Refugees International: *Sudan, Human Rights denied in the South*, March 2006, p 4.

¹⁶⁰ Burke, J. *Osborne's Concise Law Dictionary* (London: Sweet & Maxwell 1976) p. 108

Customary law is derived from the people's custom. Customary law, as it applies to the Kuku community refers to the body of traditions, morals, social conventions, and rules that through long usage and widespread acceptance direct and govern traditional African society. Jok, Leitich and Vandewint¹⁶¹ define customary law as “a manifestation of our customs, social norms, beliefs, and practices. It embodies much of what we have fought for these past twenty years. It is self-evident that customary law will underpin our society, its legal institutions and laws in future”. Every person in the Kuku ethnic community is bound by customary law.

In his explanation of the origin of customary law and what attributes it should have Dias¹⁶² says that;

When a large section of the populace is in the habit of doing a thing over a very long period, it may become necessary for the courts to take notice of it. The reaction of the people themselves may manifest itself in mere unthinking adherence to a practice which they follow simply because it is done; or again it may show itself in a conviction that a practice should continue to be observed, because they approve of it as a model of behavior. The more people follow a practice the greater pressure against non-conformity. But it is not the development of a practice as such, but the growth of a conviction that it ought to be followed that makes it a model for behavior.

Dias suggests that certain conditions have to be fulfilled for a custom, usage or practice to be recognized by a court of law as having the force of law. The custom must be of immemorial antiquity, must be enjoyed as a right must, be concise and precise, must have been enjoyed continuously and must be reasonable.

During the past years of civil war, customary law was the primary source of social order and stability within the Kuku ethnic community. It is the element that held the people together. Customary law was an affirmation of Kuku culture, tradition and indigenous identity. Anybody deviating from the social norms of the community was severely punished under the Kuku customary law. The scope of customary law

¹⁶¹ Jok A, Leitich A and vanderwint C. *A Study of Customary Law in Contemporary Southern Sudan*, (World Vision international, 2004) p. 10

¹⁶² Dias R, *Jurisprudence*, (2nd edition., Butterworths, London 1964) p.142

among the Kuku of Southern Sudan was quite wide. It covered marriage, adultery, divorce, child custody, property and procedural laws.¹⁶³

The war caused massive upheaval and dislocation of people in Southern Sudan and particularly among the Kuku tribe. Many tribal areas are no longer homogenous as they used to be. The intermixing of people as a result of internal displacement brought with it clashes of culture and customs. War has so greatly reduced the power and status of tribal chiefs, who are pivotal in the functions of customary law and undermined the formal legal structures of Southern Sudanese society. The chiefs no longer wield as much power as they used to be. The emergence of educated elite in Southern Sudan has also diminished the value of traditional laws and customs. This educated elite adopted the western outlook and approach to most of the issues affecting the society. This, to a very large extent affected the way the customary law operates in many societies in Southern Sudan and particularly how children are treated.

A study done by Jok, Leitich and Vandewint¹⁶⁴ "*Customary Law in Contemporary Southern Sudan*" shows that the majority of Southern Sudanese customary law systems show plainly a conflict between international human rights laws and rights granted to women and children in customary law. International involvement in the civil war has brought with it international awareness and interest in Southern Sudanese customs and practices.

International bodies and interest groups judge some of these customs to be at odds with contemporary and internationally accepted standards of human and individual rights. In particular, the status of women and children under most customary law systems is the source of much contentious debate. The age at which

¹⁶³ Jok A, Leitich A and vandewint C. *A Study of Customary Law in Contemporary Southern Sudan*, (World Vision international, 2004) p.9

¹⁶⁴ Ibid, p.6

children were recruited into the military did not match with what international legal instruments dictate.¹⁶⁵ Girls below the age of 16 years were married off against their will to men who were serving in the military. Once married they were forced to perform chores that are a reserve of adults. Sometimes they were passed on from one man to another to fulfill their sexual demands and appetites.¹⁶⁶

3.4 The Sudanese law and children.

Nowhere in the South Sudan Penal Code 2003 or in the Code of Criminal Procedure 2003, has a child been expressly defined. The Penal Code states that “no act is an offence which is done a) by a child of ten years and below; b) by a child above ten years of age but under fourteen who has attained sufficient maturity of understanding to judge the nature and consequences of such act”.¹⁶⁷ There is a gap here in the way the Penal code defines a child. It is important to note that the Penal Code¹⁶⁸, which deals with “Acts of a child”, has only referred to and used the term child lightly. It has not sought to define or state a child as a human being below the age of eighteen years. This lack of clarity often led to abuse of the rights of children. There is a need to adopt the universal definition of a child in accordance with the principles of the UNCRC and ACRWC. Currently it is difficult to determine the age of children because there is no proper birth registration in Southern Sudan.

Just like any other country, Sudan has a constitution which parts of it address the needs of children and youth. UNCRC¹⁶⁹ is very clear on the role of the state as far as children are concerned. It states that ‘the states shall care for children and youth, protect them from physical and spiritual exploitation and neglect, and shall implement

¹⁶⁵ Interview with Samuel Lual, Program Officer-IRC, S. Sudan., Marial Bai, July 2005

¹⁶⁶ Ibid

¹⁶⁷ The Penal Code of Sudan 2003, Section 49

¹⁶⁸ Ibid, Section 49

¹⁶⁹ United Nations Convention on the Rights of the Child, Article 14

policies for moral care and national education and religious values to ensure good future generations'.¹⁷⁰ What the constitution states here is very important if children are to grow up and become good and responsible citizens, who will contribute towards the development of the nation. The needs stated here were never met in Kajo Keji County. Both the GoS and SPLM/A violated all these legislations on the needs of the children.

On minorities and cultural rights the constitution stipulates that 'every sect or group of citizens has the right to keep their particular culture, language or religion, and to voluntarily bring up their children within the framework of these traditions. It is prohibited to impose one's traditions on children by coercion.'¹⁷¹ As earlier discussed in chapter 2, the people of south Sudan and particularly Kajokeji County value their cultural heritage and would as much as possible want to see it reserved and passed on to the next generation. These are the only two articles in the old constitution that address the issue of children.

In July 2005 Sudan included provisions in the Interim National Constitution that strengthens the rights of children and women. However there are exceptions that permit imposition of the death penalty on children under 18. The Constitution was ratified by Sudan's National Assembly and the legislative council of the Sudan People's Liberation Movement on 8 July 1998. It is intended to be in effect for the six-year interim period provided for in the Comprehensive Peace Agreement, but can be amended if supported by three-quarters of the members of each chamber of the National Legislature.

The interim Constitution clearly states the obligation of Government to protect the rights of all children. The Constitution also includes application of the death

¹⁷⁰ Constitution Of The Republic Of Sudan (entered into force 1 July 1998), Article 14

¹⁷¹ Ibid, Article 27

penalty for children under 18 in certain cases. This contravenes the UNCRC¹⁷² which stipulates that capital punishment should not be imposed for offences committed by persons below 18 years of age. Sudan has not specified that 18 years as the minimum age for recruitment and voluntary joining into the armed forces as stated in the Optional Protocol to the UNCRC to which Sudan is a signatory.

The new constitution has several provisions that recognize that investing in children's health and education is a cost-effective means to accelerate the development of the country. The right to an education is recognized in the new Constitution and the Government is called on to ensure equal access to free and compulsory primary education children. Equal access to free primary health care is also provided for. In addition, the State should combat harmful customs and traditions which undermine the dignity and the status of women. Though not specifically mentioned, this includes female genital cutting, which has a devastating physical and social impact on millions of children, women and families every year.

Nielsen¹⁷³ states that the principle of the best interest of the child dictates that in any action involving a child, the best interest of the child shall be of primary and paramount consideration. Such action must be with a view to safeguarding, promoting and conserving the rights and welfare of the child. It must also seek to afford the child proper guidance and correction that is in the interest of the child. The child must be given an opportunity to express his/her opinion in any proceeding or decision that is bound to affect him/her. The African Charter on the Rights and Welfare of Child state that 'to date, the laws and policies of South Sudan have not embraced this principle in line with the provisions of the two international instruments'.¹⁷⁴

¹⁷² United Nations Conventions on the Rights of the Child, Article 37

¹⁷³ Nielsen J.S. *Measures to Strengthen Children's Rights in the Constitution of Sudan*, (SC-Sweden, Nairobi 2005) P. 21

¹⁷⁴ United Nations Conventions on the Rights of the Child, Article 4.

Children recruited in the fighting forces were usually brought before a court of law, whether traditional or state courts. The children could be as young as ten years old.¹⁷⁵ The age of criminal liability is the minimum age below which a person is considered not able to commit any criminal offence or cannot be held criminally liable or responsible for their acts or omissions that are deemed to break the laws of the land. This age varies from country to country. The minimum age of criminal liability in Sudan is 10 years.¹⁷⁶

The UNCRC and the ACRWC have stipulated that each country must set the minimum age for criminal liability. Neither of the two international instruments has set the age of criminal liability. This has been left open to the individual states parties to decide.¹⁷⁷ In certain cases when an accused child is brought before a court of law, the court has the power to exercise discretion by looking and assessing the child and judging whether or not that child appreciates the nature and consequences of their actions. It is then that the court decides whether or not the child should be held criminally liable for his actions. However, it is important that when hearing any matter or making any decision involving a child a Court of Law must always consider the principle of the “best interest of the child” as a primary consideration.¹⁷⁸ This was always ignored when a child was brought before a court of law in Kajo Keji County.¹⁷⁹

The provision on the minimum age with regard to criminal liability is contained in UNCRC and ACRWC.¹⁸⁰ An obligation is placed on the States Parties to

¹⁷⁵ Information provided by an SPLA/M Commander who was responsible for recruiting children in the army in Kajo Keji during the year 2001.

¹⁷⁶ Penal Code of Sudan, Section 49 (a,b)

¹⁷⁷ In Sudan, children below the age of ten are not supposed to answer charges before a court of law.

¹⁷⁸ Nielsen J.S. *Measures to Strengthen Children's Rights in the Constitution of Sudan*, (SC-Sweden, Nairobi 2005) P. 21

¹⁷⁹ Interview with Eiyu Juguru, Chief of Bori Village, July 2007.

¹⁸⁰ United Nations Conventions Rights of the Child, Article 40 (3) and African Charter on the Rights and Welfare of the Child, Article 17 (4)

come up with the minimum age below which a child shall be presumed not to have the capacity to commit a crime. The age of criminal liability in the Laws of South Sudan is ten years. However, a child who understands the consequences of his/her actions and is above ten years but less than fourteen years may be held criminally responsible. This is contained in the Penal Code 2003, which states that 'no act is an offence, which is done (a) by a child of ten years and below (b) by a child above ten years of age but under fourteen who has not attained sufficient maturity of understanding to judge the nature and consequences of such act (c) the provision of this section shall not affect any civil claim by the aggrieved party against the guardian of the child'.¹⁸¹

The Penal Code states that, a child below the age of ten years cannot in 'the eyes of the law' be deemed to have the capability or mind to commit a crime.¹⁸² As such, a child below the age of ten cannot be charged with an offence before any Court of Law. Any child above ten years but below the age of fourteen years, who has not attained the maturity to appreciate the consequence of his action, will not be held liable for his/her actions.

In regard to administration of juvenile justice, it is the state parties' duty to arrest and prosecute people who are suspected of having broken the law and if found guilty are punished according to the law. Presumption of innocence is a right that must at all times be guaranteed to all persons suspected of having committed a criminal offence and is contained in Section 3 of the Code of Criminal Procedure 2003, which states that every accused person is presumed innocent until his guilt is proved beyond reasonable doubt.¹⁸³ The issue of administration of juvenile justice is

¹⁸¹ The Sudan Penal code, 2003, Section 49 (a, b, c)

¹⁸² Ibid

¹⁸³ Penal Code 2003, Section

also dealt with in UNCRC and ACRWC.¹⁸⁴

The Code of Criminal Procedure has expressly acknowledged that one is innocent until proven guilty.¹⁸⁵ This is in line with both the UNCRC and the ACRWC. Section 24 of the Code of Criminal Procedure 2003 encourages the Courts to put persons under eighteen on probation under certain circumstances. Section 65 of the Penal Code 2003 prohibits imprisonment of any person who in the opinion of the court is under 16 years of age. Section 16 of the Code of Criminal Procedure 2003 empowers the Chief Justice to establish Special Courts e.g. a Court to try juvenile offenders.

Various forms of punishment available to a Court when sentencing a person who has been found guilty are set out in the Penal Code.¹⁸⁶ These include death, forfeiture of property, imprisonment, detention in a reformatory, fines and whipping. The Penal Code points out that any person under the age of 16 shall not be imprisoned.¹⁸⁷ It also prohibits the sentencing to death of any person under the age of eighteen years at the time of committing the offence. It is positive that the section prohibits the sentencing to death of a person under the age of eighteen years. However, there is the challenge of confirming the age of the convict due to lack of birth registration.

The forms of punishments available apply to all categories of offenders¹⁸⁸. It has not taken into consideration the punishments that can be meted out to children. It is very easy for a child to be erroneously sentenced to death as there is no clear registration regime. It is worthy noting that the Penal Code 2003 deals with offences

¹⁸⁴ United Nations Conventions Rights of the Child, Article 40 and African Charter on the Rights and Welfare of the Child, Article 17.

¹⁸⁵ The Code of Criminal Procedure 2003, Section 3

¹⁸⁶ The Penal Code 2003, Section 64.

¹⁸⁷ Ibid, Section 65.

¹⁸⁸ Penal Code 2003, Section 64.

committed by all offenders yet it does not expressly provide for children. It is clear that the drafters of the Penal Code 2003 dealt with issues of children in a piecemeal manner. Physical punishment should be removed from the list of the possible punishments in the Penal Code 2003 that can be meted out to any persons found guilty of committing an offence, let alone children.

The Penal Code 2003 has not sought to define who a juvenile is. It is not stated what would happen to those children between 16 and 18 years.¹⁸⁹ It does not clarify whether they could be imprisoned. The Penal code has confused the position even further as it refers to juvenile offenders. It places the age of such children between ten and eighteen years.¹⁹⁰ This is in contradiction with Section 65 which covers children up the age of 16 years of age. The UNCRC places a duty on the state parties to take measures to protect children from abuse and provide support to victims of abuse. The parties must also take measures to prevent sexual abuse and exploitation.¹⁹¹ Therefore, state parties must take measures to protect children from abuse and provide support to victims of abuse. They must also take measures to prevent sexual abuse and exploitation and trafficking.

The law regarding sexual abuse is titled "*Rape and other sexual offences*".¹⁹² The significance of the above is two fold; one, it is an offence to have sexual intercourse with a woman without her consent; two, but should she be below the age of eighteen years, then the question as to whether or not she consented to the sexual intercourse is immaterial as a person below eighteen is not deemed to be able to understand and appreciate the implications of his/her actions and therefore for that reason not able to consent to sexual intercourse. Therefore, the age of consent for

¹⁸⁹ The Penal Code 2003, Section 65(a).

¹⁹⁰ Ibid, Section 67

¹⁹¹ UNCRC, Article 34.

¹⁹² Penal code 2003, Section 316

sexual intercourse in South Sudan is eighteen years.¹⁹³ This, to a very large extent, protects children.

Sex was only allowed in a marriage setting. In Kajo Keji County, there are wide gaps in relation to this issue.¹⁹⁴ Any woman above eighteen should be referred to as a woman rather than as a girl for the sake of clarity. The Laws of South Sudan have not exhausted all aspects of criminal sexual abuse for the protection of children including pornography, child trafficking and indecent assault, and prostitution, among others.

On the issue of protection from harmful cultural practices, one of the major differences between the UNCRC and the ACRWC can be found on the issue of the cultural practices. It is worth noting that the ACRWC being specific to Africa captures the peculiar issues that are unique to the African continent. The UNCRC has not delved into the issue at all. A cultural practice is considered harmful if it affects the welfare, dignity, growth and physical or psychological development of a person or if it is prejudicial to the health or life of that person or is discriminatory. It is with this background in mind that practices that still persist in Africa such as female genital mutilation, early marriage, and forced marriage need to be explored further and standards set on how these practices ought to be approached

In conclusion, a number of failures of the Sudanese governments and SPLA/M to promote and protect the children's rights were observed. The Government of Sudan continued to restrict severely freedom of assembly, association, religion, and movement. Innocent children, who would gather to play and do other things that normal children do were always a target. The government militias did not differentiate children from adults.

¹⁹³ Ibid

¹⁹⁴ Interview with Eiyu Juguru, Chief of Bori Village, July 2007.

In the context of the Islamization and Arabization drive, government pressure, including forced Islamization, on non-Muslims remained strong, including continued reports of forced conversion of non-Muslim children and displaced persons¹⁹⁵. This clearly contravenes article 24 of the constitution as cited earlier in this study. Freedom of religion is granted in the constitution. Therefore forcing children to convert to Islam is going against not only the constitution, but also other international legal instruments that defend the freedom of worship and association. One of the causes of the Sudan civil war was fears of Arabization and Islamization of the people of Southern Sudan and the imposition of Sharia law.

The Government of Sudan and SPLA/M continued to resist the presence and activities of human rights groups in the investigation of human rights abuses. Violence and discrimination against children is a problem that has continued to increase. Discrimination and violence against religious minorities persisted, as did discrimination against ethnic minorities and government restrictions on worker rights. Child labor is widespread. Abduction of women and children, and slavery and trafficking in persons remained issues of serious concern. The Government of Sudan security forces and associated militias as well as SPLA/M were responsible for abductions of women and children, use of forced labor (including forced child labor), slavery, and the forced recruitment of children into the military.

¹⁹⁵ Interview with Major Majok, Kajo keji , June 2007

CHAPTER 4: An Analysis of the Role of Children in South Sudan Civil War.

4.1 Introduction

Millions of children all over the world die because of being caught up in armed conflicts. According to UN Secretary General, an estimated two million children have been killed globally in the last one decade.¹⁹⁶ Some are maimed and injured as opposing sides exchange fire. Still more are separated from their families. Others are sexually abused. According to Mehari,¹⁹⁷ majority of the children are exposed to hunger and untold suffering of all sorts. These conflicts destroy the social structure of communities. Crops, churches, mosques, hospitals are all destroyed during the conflict. This chapter will present and examine the findings of the research. It will look at the reasons that made children join the military as well as explore the views of the children regarding their participation in the conflict. Children in South Sudan were used in different ways in the military. The ways in which child soldiers were used in Kajo Keji County will be looked at in depth.

4.2 Recruitment of child soldiers in Kajo Keji County.

At the start of 2001, there were approximately 10,000 soldiers in south Sudan.¹⁹⁸ A meeting held in Nairobi in 2001¹⁹⁹ discussed special demobilization exercise of some 3,500 children from the SPLM/A. This study found out that the line dividing civilian and military life in south Sudan is very thin. People could be forced to join the military without notice if there was imminent danger of attack from the

¹⁹⁶ The UN, *Promotion and protection of the rights of the child, Note by the Secretary General* p. 5

¹⁹⁷ Mehari Senait. *Heart of Fire* (London, Profile Books, 2006) p. 88

¹⁹⁸ There has not been a clear figure of the children involved with the military in South Sudan due to lack of proper birth registration and well organized national census. In 2001, UNICEF estimated that there were approximately 9,500 children in SPLA, SPDF and GoS proxy groups. SPLA itself estimated that there were at most between 5,000 and 6,000 in the SPLA and maybe 9,000 in all armed groups in the south.

¹⁹⁹ Inter-Agency Meeting on Demobilisation of Child Soldiers During Armed Conflict, Nairobi, October 2001.

enemy. Movement in and out of the barracks was very fluid. Many children were incorporated into the fighting groups even if they started with domestic chores. The majority of children came to the barracks for intermittent periods and returned home on a regular basis to help their families during the planting or harvesting seasons. Some children were recruited by force and others enlisted voluntarily. Most of the children knew where their families were, and because the Kuku community kinship structure was quite strong despite the conflict, most of the families could be found. All children of extended families referred to each other as brother and sister. This strong sense of oneness is captured very vividly by Eggers²⁰⁰ who states that;

In my family, the children borne by all six women play together and are considered a family without barrier or reservation. My mother is one of the mid-wives of the village, and has aided in the delivery of all but one of my siblings. My brothers and sisters are as old as sixteen and as young as six months, and our compound is full of the sounds of babies, their screams and their laughs. When I am asked to, I help with the infants, carrying them when they wail, drying their wet clothes near the fire.

Participation of children in the fighting forces was either forced or voluntary.²⁰¹ Children were pushed to join the military without their consent. This was done in various ways. The period of recruiting men and women, boys and girls in Southern Sudan in the military was referred to as *akasha*²⁰² (forced recruitment). A directive was usually given from the SPLM/A headquarters that a specific number of soldiers were required. Each area was asked to provide a particular number depending on the presumed population of that area. Most of the adults were not willing to join and often went into hiding during this period. The chiefs, unable to raise the required

²⁰⁰ Eggers D. *What is the What*, (San Francisco, McSweeney's, 2006) p.37

²⁰¹ Brett R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 16

²⁰² Akasha is a Dinka word that had been coined to explain the practice of soldiers laying ambush and confronting the villagers at unexpected times to force children as well as adults to join the fighting forces.

number of adult soldiers allocated to them usually gave out children, who did not know what this was all about.

For lack of something to do, many children could be found in the market places loitering or sitting around doing nothing. These were mainly children whose families did not have cattle to look after. The reason for idling around was that there were no schools or polytechniques which they could attend. Military personnel would approach these children and take them by surprise, surround them force them to sit down, select whoever they wanted and take them away into the barracks. This could happen when people were attending meetings or a gathering or going to school or herding cows. Press ganging was a method that was often used in recruitment of child soldiers.²⁰³

Maendeh,²⁰⁴ a former child soldier explains that lack of education opportunities left the boys with nothing to do other than join the forces. There was hunger and desperation in the families where the boys came from. Being in forces would provide them with plenty of food to eat. Girls sometimes joined in order to evade forced marriage. Marriage among the Kuku tribe was usually arranged for girls. If a girl did not like the man selected for her, the army was the best option where she was welcomed with open hands. One lady narrated how her father wanted to marry her off to an old rich and sickly man. She did not like this and ran away from home. She later found herself heading to the barracks where she would be secure from the threats of her father.²⁰⁵

Brett and MacCallin²⁰⁶ stress that economic and social reasons made the children join the forces. Children were usually enticed with promise of goodies if they

²⁰³ Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p. 18

²⁰⁴ Ibid

²⁰⁵ Interview with Betty Wai, Kajo Keji, June 2007

²⁰⁶ Brett R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p.101

accepted to join the military. There were offers of monthly payment. They were told that they would be paid money which they would use to buy whatever they wanted. They were also told that they would be provided with vocational training so that once they finished serving in the forces it would be easy to get employment. There were even offers of education abroad if they served well in the forces. One former child soldier described by Maendeh²⁰⁷ said that people came into their area one day and asked all the children to assemble in one area so that they could be taken to a boarding school. The boy said that they walked for two days and the place they arrived at had no semblance of a school. What he saw were huge trenches dug all around that place and inside there were a few tents. When he looked more closely he saw huge guns mounted all around that compound. Upon seeing this he knew this was not going to be a school but something to do with fighting.

Sometimes the boys could join for the simple reason that they had never experienced any other lifestyle and therefore being in army was a normal thing. Separated children and unaccompanied minors saw the only place they could get succor was the barracks.²⁰⁸ Having no one to take care of them, the army was the only place they could go to. There being no food to eat at home, the temptation of finding plenty of food in the barracks was too much to refuse. The boys while in the barracks found out that out that they could use the gun to get whatever they wanted. When they needed food they could raid the whole village and get all the food they required. Young boys, as old as 7 years, could lie about their age so that they could join the army.²⁰⁹ Military activities were usually glorified in Kajo Keji County. Some boys viewed their being in the army as a sign of manhood.

²⁰⁷ Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p. 18

²⁰⁸ ICRC. *Inter-agency Guiding Principles on Unaccompanied and Separated Children*, Geneva 2004.

²⁰⁹ Interview with Commander Malong, Aweil West, July 2007

The glamour of military uniforms enticed the boys. They were overwhelmed by the idea of holding a gun. The reason why they did this was that they admired the life of a military man and wanted to be part of the military movement. Their presence in the army gave them a sense of importance. Sometimes young children could offer to be taken instead of their fathers because they knew that their fathers were the main bread winners in the families.²¹⁰

Peer pressure sometimes made the boys join the army. Some were encouraged by their friends to do as the others were doing. Lest they be seen as cowards, they had to comply. Some boys joined the forces to seek revenge of their dead fathers, mothers, brothers, sisters, destruction caused on their property, theft of their cows, food etc. They felt that it was their duty to avenge of all these evil deeds perpetrated against their own people.²¹¹ These human rights violations they witnessed were too much to bear and therefore wanted to seek revenge.

Machel explains that some children joined the forces voluntarily as a result of their ideological beliefs.²¹² They believed in what they were fighting for. They very well understood that the war was a result of political, social, political and economic reasons. They came to learn that the Government of Sudan was responsible for all the underdevelopment in Southern Sudan. Hence they took up arms to fight these ills. It was better to die fighting than die doing nothing.²¹³ Children who died fighting were considered heroes among the Kuku community. SPLM/A soldiers usually went from one place to another explaining the cause for which they were fighting. Then they asked the boys to join voluntarily. Children, being easy to convince did not ask many questions but obeyed what the military personnel asked them to do. They praised the

²¹⁰ Interview with Commander MaJong, Aweil West , July 2007

²¹¹ Ibid

²¹² Machel, Graca. *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children* (Hurst & Company, 2002) p. 12

²¹³ Ibid

courage of the boys already serving in the forces and demonstrated how they were enjoying life there.

4.3 The role of children in the South Sudan civil war.

In places where children were recruited in Southern Sudan, recruitment was forced, voluntary or induced. There are various reasons why children were recruited in Kajo Keji to join the fighting forces. This study found out that children could easily be molded than adults. Two commanders,²¹⁴ who participated in the war between 1998 and 2004, said that children were a favorite when it came to recruitment because it took a short time to train them and shape them into what they wanted. Adults used to resist some things that they were asked to do. This was not the case with children. According to the commanders, children's minds are unadulterated. They do not contain so many things as those of adults.

Brett R. and MacCallin²¹⁵ are of the opinion that children's meekness and lack of the power to question things made things even more difficult for them. It was also easy to indoctrinate children and make them believe so much in what they were told they were fighting for. The commanders used poverty and denial to have proper education as the reason of involving them in the war and attributed all these problems to the Government of Sudan.²¹⁶ The children came to believe so much in this that they vowed to fight until justice and fairness was instituted back in their country.

Brett and MacCallin²¹⁷ state that it was easy to train and discipline children than adults. Because of their innocence, children could learn new techniques, new tricks and new ideas within a very short time. Their capacity to grasp ideas was far

²¹⁴ Interview with Commander Malong and Major Majok, Aweil west, July 2007

²¹⁵ R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 183

²¹⁶ Interview with Commander Malong and Major Majok, Aweil west, July 2007

²¹⁷ R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 183

much higher than that of adults. It was easy to make them concentrate in whatever training was taking place. Children did not leave any responsibilities behind. They did not leave wives and children like the adults. So when they were being trained all their minds were in what they were being instructed to do. They gave their entire whole into this cause. Indiscipline among adult soldiers was very common.

Adult soldiers resisting to be disciplined was a common thing in the barracks. Some of them could refuse to take whatever punishment was meted out to them. They could even fight with the seniors giving out the punishment. Once given punishment, the children did not resist. The punishment used to act as a deterrent to other children not to commit the same mistake or crime. It could be explained to the other children why their colleague was being punished. This made the children know and understand quite well that the same treatment will be extended to them once they committed such a crime or mistake.²¹⁸ Sometimes the punishment was so harsh that some children cried upon seeing their fellow children suffer so much.

Fear was instilled into the Kajo Keji child soldiers that they had no option other than to obey and commit themselves to the cause for which they had been called. It was easy to subdue the children through intimidation.

According to the Headmaster of Wudu Primary School,²¹⁹ children had values which mature soldiers did not possess. Children are fearless and can run very risky missions. Children in Kajokeji were given tasks that were very dangerous to undertake. Such missions included finding out whether certain areas the soldiers were to pass through were mined. They did not have any mine detectors but were supposed to use the knowledge and skills gained from the training to do this. The child soldiers did this without any fear.

²¹⁸ Interview with Captain Degu Lobia, Kajo Keji, August 2007

²¹⁹ Interview with Charles Lobia, Headmaster, wudu Primary School, Kajo Keji, July 2007

Child soldiers were also required to run espionage missions. They could camouflage very easily and get into the population hosting the GoS soldiers undetected²²⁰ and gather information on what they had been asked to do. It was easy for them not to be found out because of their age and innocence. Thus the rebel movement could use this information gathered by children to dislodge the Government forces. It was also easy to mobilize children. Assembling and organizing child soldiers was far much easier than doing this with adults. The simple reason is that children were more obedient than adults and did not ask a lot of questions.²²¹

It was also easy to intimidate children and scare them with punishment. One of the former child soldier said that most of the children were scared of punishment and therefore were always obedient.²²² The punishment meted out to children in the barracks was too scary and frightening for children to imagine they could go through that. This child soldier also said that some children could be punished to the point of death. This happened in full view of all the other child soldiers. Such kind of punishment was supposed to act as a deterrent to any child who would think of, for example deserting.²²³

Desertion was one of the most frequently used means of getting out of the military. Most of the deserters were adult men who were serving in the fighting forces against their wish. Running away was the only way of getting back to their families. As earlier mentioned, the punishment to this kind of crime was instant death.²²⁴

²²⁰ Brett R. and MacCallin M. *Children, The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 183

²²¹ Interview Charles Longa, a former child soldier, Kajo Keji June 2007

²²² Ibid

²²³ Interview with Captain Degu Lopia. Kajo Keji, August 2007

²²⁴ The conditions in the barracks were so hard that an escape was the ultimate decision one arrived after a long and careful thought. Those who planned to escape knew too well the consequences of this action. To them being killed while attempting to escape was far much better than living a life of drudgery in the barracks.

Children were scared of deserting lest they be killed. Hence the reason why most commanders preferred young child soldiers than adults.

Most men and women who were serving in the military had left their families and loved ones behind. One of the interviewee²²⁵ said that sometimes it was a painful experience for the commanders to recruit adults amid cries from their wives and children. The men were the bread winners in their homes as well as offering security whenever there was a threat. Children had no wives and kids to think about once they were in the forces. They gave their undivided attention to the cause for which they had been told they were fighting for. Therefore it was better and easier for the commanders to have as many children as possible who did not have any commitments. They did not leave behind any responsibilities. These children were also healthy and energetic unlike some of the adults recruited. They could put in a lot of hours on a task without getting tired.

In some cases it was easy to condition and motivate the children. Children were given drugs such as marijuana and heroine to make them more courageous and beastly. Once they were high they could advance in a way that could surprise the enemy. It was easier to make the child soldiers take these drugs without realizing how dangerous they were. According to Lual²²⁶ drugs usually gave the children a lot of energy and made them fearless. It was not easy to do the same to the adults because they knew the dangers of these drugs.

Children recruited in the military were mainly used in various ways. One of the common tasks assigned to children as discussed by Machel²²⁷ was to serve as porters, often carrying very heavy loads of up to 50 kilograms including ammunition

²²⁵ Interview with Sarah Jukalu, Wudu. June. 2007

²²⁶ Interview with Samuel Lual, Program Officer-IRC, S. Sudan., Marial Bai, July 2005

²²⁷ Machel, Graca. *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children*. (Hurst & Company, 2002) p. 13

or injured soldiers. Children worked in the gardens, hunted for wild fruits and vegetables and looted food from gardens and granaries.

In SPLM/A, children performed many other diverse and multiple roles, besides fighting. Depending on the context, child soldiers could serve as sentries, bodyguards domestic laborers, medics, sex slaves, spies, cooks, mine sweepers, or recruiters. Roles varied significantly by age and gender. For example, according to Mehari²²⁸ children as young as five years were put as delivery boys and girls often served as spies. Girl soldiers performed the same wide variety of roles performed by boy soldiers.

Commanders frequently sought girls because of their impressive capacities for carrying heavy loads. Girl soldiers were also frequently sought for purposes of sexual exploitation. Thus it is evident that it was not in all occasions that children were used as combatants. When children were recruited as soldiers, they generally received much the same treatment as adults, which include the often brutal induction ceremonies. Girls recruited in Kajo Keji were also used as cooks, had to attend to the wounded and wash clothes. According to one former girl soldier,²²⁹ girls were also required to provide sexual services sometimes unwillingly. They were usually married off to rebel leaders. If the man died, the girl was put aside for ritual cleansing and then married off to another rebel.

While children of both sexes could start out in indirect support functions, it did not take long before they were placed in the heat of battle. Brett and MacCallin²³⁰ explain that their inexperience and lack of training left them particularly exposed. The youngest children rarely appreciated the perils they faced. When shelling started the

²²⁸ Mehari Senait. *Heart of Fire* (London, Profile Books, 2006) p. 257

²²⁹ Interview with a former girl soldier, Wudu, June 2007

²³⁰ Brett R. and MacCallin M. *Children The Invisible Soldiers* (Vaxjo, Radda Barnen, 1996) p. 183

children got over-excited and forgot to take cover. Some commanders deliberately exploited such fearlessness in children, even supplying them with alcohol or drugs²³¹.

4.4 Problems and effects of participation in the war.

The child soldiers in Kajo Keji County were welcomed with initiation rites. These rites were supposed to make them truthful and committed to the cause for which they were fighting. Such initiation rites were very tough and humiliating. They were beaten, cold water splashed on them at night, exposed to too much hunger, left in the open where they were attacked by mosquitoes. Some of them ended up by dying of malaria.

Maendeh²³² describes vividly the long distances child soldiers had to walk to get to the preferred destinations. There were no military vehicles to take them to where the commanders wanted them to be. The places they passed through were sometimes very dangerous as there were wild animals and the forests were quite thick. This often made the boys and girls get completely exhausted. Even when they were at the point of breaking down, the other older and senior soldiers urged them on. Those who could not put up with this were caned and molested. For fear of facing this kind of wrath the child soldiers had no option but to keep on going.

The boys and girls had to walk for long distances without food and water. This often left them very weak. At times they had to look for their own food. Because they had to survive they had to raid villages and get whatever they could to eat. Their participation in the war made them develop a beastly character. They robbed and beat people in order to survive.²³³

²³¹ Interview with Samuel Lual, Program Officer-IRC, S. Sudan., Marial Bai, July 2005

²³² Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p.14

²³³ Interview with Angong A. SRRC County Secretary Marial Bai, January 2005

Sometimes the boys became so vulnerable that they had no option but to stay in the army. Being in places they did not know, they were often threatened by the commanders and other senior military officers that they will be left there or asked to find their way back home.²³⁴ They knew definitely that they will never find their way back to their villages. They knew that if that happened they would be ready food for wild animals. Rather than be eaten by animals, they chose to stay in the military.

Whenever one of them died as a result of sickness or any other cause, his or her body was disposed of carelessly and without ceremony. As earlier mentioned in this study,²³⁵ the Kuku valued their customs and traditions very much. Whenever somebody died he or she was given a proper burial ceremony. It was therefore very agonizing for these boys to see their fellow dead children bodies being treated in such a disrespectful manner. Two of the boys interviewed²³⁶ for this study said that they witnessed three of their colleagues dying in very stressful circumstances. Their bodies were left in the forests for vultures to eat or rot there. This often traumatized them a lot.

There were no proper health units in places where these children were fighting. The medics accompanying the soldiers were not properly trained and often lacked proper drugs. Kaio Keji County, being a place prone to malaria, the boys and girls often went down with malaria. They had to seek herbs from the forests which often did not work. Many of them died due to malaria attacks.²³⁷ Nine out of the ten children interviewed had several scars on their bodies.

Former child soldiers told this researcher that they sustained several wounds while in the military. Some were bullet wounds sustained while in combat with the

²³⁴ Macndeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006)

²³⁵ Chapter 2. Cultural practices among the Kuku of Kajo Keji County, P. 45

²³⁶ Interview with two former child soldiers, Wudu June 2007.

²³⁷ Mehari Senait. *Heart of Fire* (London, Profile Books, 2006) p. 120

enemy while others occurred as a result of poor living conditions. One of the boys interviewed had a peptic wound.²³⁸ Four years had passed and the wound had simply refused to heal. The boy told this researcher that he had tried several types of treatment, but all this was in vain. At the time of the interview his guardians were discussing with NGOs running health activities in Kajo Keji County to see if further treatment could be sought abroad.

Mehari²³⁹ says that the child soldiers had to go through very tough military training. To them the training was more of a torture than an activity that was supposed to make them acquire new knowledge and skills. They could be made to sit and stay awake throughout the night. This exercise happened outside where they were hit by the cold in the chilly night. Any boy or girl losing any item supplied in the military was severely punished. Losing a gun was the most serious crime a child could commit. It was better to die than face the wrath of commanders when a child lost a gun. A child would be lashed until blood started oozing from the mouth and the nose. The punishment was meted out in full view of other child soldiers so as to teach them a lesson.

The wounded children were often left behind on their own. The same happened to sick children who could not match the speed of the rest of the soldiers. They were often left behind to die. Those who could still shoot were left with their guns fully loaded. They were asked to wait for the enemy and die as heroes or if they could, turn the gun on themselves. They were told that once they saw the enemy, they should start shooting and ensure that they killed as many government soldiers as possible. They were told that this would give them satisfaction of having killed many

²³⁸ Interview with John Geri, a former child soldier. July 2007

²³⁹ Mehari Senait. *Heart of Fire* (London, Profile Books, 2006) pp.81-84

soldiers before they themselves were shot dead. If no enemy soldiers came their way, the vultures usually had a hearty meal.²⁴⁰

Child soldiers captured by the enemy were very much mistreated. According to Maendeh,²⁴¹ when captured, the child soldiers were not killed. Rather they were given very heavy duties to perform. One former girl soldier²⁴² said that once captured the girls became porters or sex slaves. Girls were forced to satisfy the sexual appetites of the new soldiers. Those boys who could not perform these new tasks often faced the firing squad. The captured child soldiers were also required to provide information about their rebel army. If they did not comply, they were also shot dead or if there was time, they were beaten till they died.

In some places, families usually moved and stayed with the military. This was due to security reasons. The families felt more secure in the barracks than being in the villages. Sometimes a boy as young as five years could be seen performing some tasks for the commanders. It was difficult to separate families from the barracks. Children joined the forces to ensure that their parents were free from harassment. They knew that their relatives were secure once they were doing something for the movement.

Life in the military transformed the child soldiers completely. They became fearless and very courageous. Maendeh²⁴³ quotes one boys who said that 'it is like we were a lost generation, who had wondered in jungles and plains spending nights outside like wild animals and drinking the morning dew'. Such kinds of experiences hardened the boys and they could perform feats that no other normal children could. They could advance towards the enemy soldiers daringly. This heroic advance

²⁴⁰ Interview with a commander at Wudu garrison, Wudu, August 2007

²⁴¹ Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p.56

²⁴² Interview with a former girl soldier, Wudu June 2007

²⁴³ Maendeh E.O. *Child Soldier* (Nairobi, Long Journey Publishers, 2006) p. 115

sometimes made the enemy soldiers flee. This transformation in their lives was quite abnormal. After being demobilized majority of them could not fit in the society even after too much counseling by specialists and members of the community.

According to one headmaster²⁴⁴ the time spent in the barracks was wasted time. This was such a drawback for the children. They came out of the war as illiterate as they went. The only difference was that they now knew how to hold a gun and shoot. They could not join the normal schooling because they were too old for that and in Kajo Keji, there was only one school offering vocational training. This school was quite some distance from the villages where the boys had come back to. At the school there were only two former child soldiers attending classes there.

The social development of children was adversely affected as a result of their participation in war. As earlier discussed in this study, former child soldiers did not grow up in an environment that permitted proper realization of a child's full social development. Children who had participated in the army were quite different from those who did not.

The experience of participating in war left the children with psychosocial problems. For example one boy said: "I face a lot of disturbing experiences because I watched my father being beaten and killed by the enemy. As a result, I often feel a deep sense of revenge".²⁴⁵ All the former child soldiers interviewed face deeper psychosocial problems. Other psychosocial problems were due to separation from parents and other family members and absence of the social networks they had back home.

²⁴⁴ Interview with a headmaster of a primary school in Kajo Keji, Wudu, July 2008.

²⁴⁵ Interview with a former child soldier, Wudu, June 2007

In Kajo Keji County, community members²⁴⁶ said that because of trauma it was very difficult to raise children the way a parent may wish to. The children were often frustrated, easily agitated and hardly listened or took advice or instructions. Teachers also noticed that former child soldiers had difficulties concentrating in class. They often got agitated and were in the habit of threatening teachers. Boys, compared to girls, were found to have a lot more worries over their future because of the cultural expectation that they would be the future bread earners for their families. Without going to school, they had no hope of living a better life in the years to come since they had nothing to do to earn a living. This deepened their frustration.

The experiences and hardships the boys and girls in the military went through are akin to what the prisoners of war had to go through during the holocaust. This made them look at life as meaningless existence. The suffering brought about meaninglessness in their lives. Frankl²⁴⁷ says that

The way that led from the acute mental tension of the last days in camp was not certainly free of obstacles. It would be an error to think that a liberated prisoner was not in need of spiritual care any more. We have to consider that a man who has been under such enormous mental pressure for such a long time is naturally in some danger after his liberation, especially since the pressure was released quite suddenly. So a man who has suddenly been liberated from mental pressure can suffer damage to his moral and spiritual health. Now being free they thought they could use their freedom licentiously and ruthlessly.

The child soldiers experience in the army had distorted their mental orientation completely. Mogga²⁴⁸ explained to me how the boys used to behave at school. They became rude in schools, started molesting women and committing crimes without fear. Life to them was meaningless. Those interviewed said that they had lost a lot that could not be recovered. Some came home to find that all their

²⁴⁶ A focus group discussion in Kajo Keji, Wudu, June 2007

²⁴⁷ Frankl V. *Man's search for Meaning*. (London, Rider, 2004) p. 97

²⁴⁸ Interview with Ben Mogga, Headmaster, Sera Jale Primary School, Kajo Keji, July 2007

relatives had been wiped out during the war. All the children involved in this study were abducted between the ages of nine and twelve. McDonnell and Akallo²⁴⁹ conclude that almost all of the children experienced several traumatic events including but not limited to seeing someone killed, being forced to kill someone, the death of a parent, having to carry heavy loads, being beaten severely, forced to drink urine, loot properties and burn them, to abduct other children, were sexually abused, and gave birth to an illegitimate children in captivity. The events reported by the children in the study caused severe emotional problems after they were released from captivity similar to the effects of post-traumatic stress syndrome reported by combat soldiers after the conclusion of hostilities.

4.5 Reintegration of child soldiers in Kajo Keji County

Reuniting children with their families was not difficult in Kajo Keji as most of them knew where they had come from and their families went to pick them when demobilization happened. The communities that were receiving the children had been sensitized that the children, who had been fighting in the war, would be coming home.²⁵⁰ It was important to mobilize the community and alert them of the children's return. They were informed that the children had undergone some bad experiences in the army and therefore would require some special treatment. They had special needs which members of the community had to look into.

NGO²⁵¹ workers had been going around discussing with the chiefs, sub chiefs and village headmen on the need to develop community social networks. This

²⁴⁹ McDonnell F.J.H and Akallo G. *Girl soldier. A Story of Hope for Northern Uganda's Children* (Michigan, Chosen Books, 2007) pp. 115-123

²⁵⁰ Sensitization campaigns were carried out by UNICEF and Norwegian People's Aid.

²⁵¹ NGOs that carried out tracing, reunification and reintegration in Kajo keji County included Norwegian People's Aid and UNICEF.

community social network was important because the majority of the children had come from poor families. This would necessitate the child to feel that he was being accepted back into the community and not just the family he was coming home to. This method would ensure quick recovery and reintegration of the children.

It was important to ensure that a proper system of follow-up of these former child soldiers had been put in place. The progress of the children in the community had to be constantly checked to find out how well they were reintegrating and see what adjustments had to be instituted to facilitate faster reintegration. UNICEF,²⁵² which was taking a lead in this exercise, had trained community mobilizers on the skills necessary for carrying out this exercise. These children, having been denied normal growth and development, needed to be monitored very closely.

SSRC²⁵³ said that one of the problems of reintegrating former child soldiers in Kajo Keji was poverty and lack of resources to cater for their special needs. It has been well documented that abuse of children is as a result of poverty, repression and social injustice. The community and family play a very critical role in effecting the recovery of children who experienced distressing events. The needs of these children are special and have to be met in a special way. Those who were maimed during the war required special treatment. Among other things they required special food. This remained a big challenge to the family and the community taking care of them. Taking care of the disabled require special skills. These skills were lacking among the people who were taking care of these disabled children.

A counselor²⁵⁴ in Wudu explained to me that reintegration of the former child soldiers into civilian life was quite a big task. As was mentioned earlier the lives of the children were completely transformed while they were serving in the military.

²⁵² Interview with a UNICEF employee, Nairobi, July 2007

²⁵³ Information provided by Sudan Relief and Rehabilitation Commission, Wudu, June 2007.

²⁵⁴ Interview with a Counselor working with UNHCR, Wudu, July 2007.

Having them start participating in a life they had left so many years back was quite a daunting task. The lifestyle of the community was quite different from what they were used to. Special skills and treatment of these children was needed in order to reintegrate them.

Schools are places where children can be taught issues to do with peace education and the importance of tolerance and co-existence.²⁵⁵ Availability of schools and vocational skills training programs was important for these children. Children needed to be put in schools with trained teachers and enough teaching and learning materials. All the children interviewed for this study were already attending various schools in Kajo Keji County. However it was a bit difficult to handle the children in schools due to various reasons. As is well known, war destroys educational institutions. Colleges that would have equipped teachers with necessary teaching and learning methodologies, knowledge and skills to handle pupils, whether normal or having special needs, were not available.²⁵⁶ The teachers handling these children lacked the special training needed to be able to cope with the needs and demands of the children affected by the armed conflict.

The children had been taken away from the community to different places with different cultures and practices. Machel²⁵⁷ states that drugs and alcohol were all available to them and sometimes they were forced to take them so as to enhance their performance in combat. It was important therefore to draw from the knowledge and experience of the local community the methods for treating the traumatized children. Withdrawing alcohol completely from them was not going to solve their problem. Counseling them and discussing issues most immediate to them was quite important

²⁵⁵ Interview with County Education Officer, Wudu, July 2007

²⁵⁶ Interview with County Education Officer, Kajo Keji County, Wudu, July 2007

²⁵⁷ Machel, Graça. *The Impact of War on Children: A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children*. (London, Hurst & Company, 2002) p. 40-47

in bringing them to the realization that what they were doing was wrong. Some members of the local community had been trained on counseling skills, which were very important in handling these children.

The women demobilized from the military had more special needs than the boy soldiers. McDonnell and Akallo²⁵⁸ state that the girls in the barracks usually became the soldiers' wives, were raped, had abortions, got children and were infected with diseases, some with HIV/AIDS. When demobilized culturally, they were not acceptable in their communities. Men despised them as having been used and nobody wanted to marry them. Some ended up becoming prostitutes. Drawing from other parts of the world where conflict had taken place and girls and women had been involved, the community in Kajo Keji had been well sensitized on these issues. They were made to understand that it is not their wish to be what they were. So when the women were let out of the military, the community was more than willing to accept them and treat them well. Two of the women interviewed had attended tailoring and clothing course and had set up a small business of sewing and mending clothes at Wudu market.

In general the Government of Sudan, under the CPA agreement with SPLM/A, have endeavored to ensure that reintegration of former child soldiers remains an integral part of local and national development plans and that the capacity of responsible national institutions and organizations is strengthened. This would create sustainability and durability of the reintegration exercise.

²⁵⁸ McDonnell F.J.H and Akallo G. *Girl soldier. A Story of Hope for Northern Uganda's Children* (Michigan, Chosen Books, 2007) pp 182-188

CHAPTER 5: Conclusions and Recommendations.

This chapter presents conclusions and recommendations on the participation of children in the civil war between the GoS and SPLM/A.

5.1 Conclusions.

The use of child soldiers in the armed conflict in Southern Sudan was widespread. Many children either joined the fighting forces voluntarily or were forced to do so. With the uncertainty of the outcome of the peace agreement between SPLM/A and GoS, recruitment of children into the army still continues. Those that were there before the CPA have not been demobilized and no plans have been put in place by the two parties to release them from the armies.

All the international legal instruments regarding protection of children in Southern Sudan were flouted with impunity. There is no action that has been taken against the GoS or SPLM/A for violating laws which they are a party to. The policies and laws of south Sudan on children were not followed. Children in South Sudan were subjected to untold suffering and continue to experience the same, especially those serving in the military.

The community child protection network was weak in Kajo Keji County. Community protection networks are a forum where community members meet, discuss child protection problems and research solutions. The CCPN is a informal structure, representing all social sectors of the community including children. The overall aim of the CCPN is to improve the physical and social security of their community members, giving particular attention to vulnerable families and children. Its objectives include preventing and protecting children from all forms of abuse, promoting advocacy for the protection and development of children and disseminating

and promoting the rights of children and legal protection instruments. Most of the structures necessary to facilitate effective CCPN were not there in Kajo Keji. This became difficult for the community to get deeply involved in issues pertaining to the welfare of their children at a higher level.

The administration of justice in South Sudan was very weak. Courts did not exist and those that existed rarely functioned, sometimes administering justice very unfairly. The people handling children cases had very little training or none at all on issues to do with administration of justice on children. Most of the police officers, magistrates and judges had no training on child rights and how to deal with children in need of care and protection and children in conflict with the law.

The customary laws continue to be in conflict with the international law. Girls were forcefully married off at a tender age against their will. Boys and girls below 18 years old were sent to fight. Female Genital Mutilation was practiced by the Kuku tribe and many other tribes across Sudan. All these practices were in conflict with the dictates of international law on the treatment of children.

There was poor educational system in South Sudan. Schools were very few and those that existed were poorly equipped. They did not have good facilities. Classes were held under trees, there wasn't enough teaching and learning material, teachers did not have adequate training and others were not trained at all. Children rarely benefited from the education provided at this time. It was very difficult to accommodate former child soldiers into these schools because they did not have teachers who had training in the special skills they required. Health facilities were also unavailable and those that did exist had constant shortage of drugs. Former child soldiers and other children continued to die from malaria as a result of shortage of drugs.

Local administration was weak, The Kajo Keji county Commissioner was an appointee of the SPLM/A. He was used to carry out SPLM/A duties and some of his responsibilities included facilitating recruitment of soldiers into the army. He therefore could not prevent children from being taken away to join the military. SRRC was responsible for development activities in the county. SRRC did not have the facilities and personnel to run the office effectively. Administration at the grassroots level was non-existent. The only people who wielded some power were the chiefs and sub chiefs. And even these people were used by the SPLM/A to recruit children into the army. Children were therefore very vulnerable in the whole county. There was no body to fight for their rights.

5.2 Recommendations.

The United Nations states that the success of efforts to protect and promote the rights of children often depends on persuading others of the value of such actions and the need to increase awareness of the critical situation. All individuals, professional practitioners and civil society organizations can take steps aimed at preventing participation of children in armed conflicts. They can encourage governments to reduce their levels of militarization and to honor the commitments they made at the World Summit for Social Development²⁵⁹ to support the concept of human security, by taking steps to shift the allocation of resources from arms and military expenditures to human and social development. Global campaign for a worldwide ban on the manufacture, sale and distribution of landmines and other weapons that injure and kill mainly civilians, and boycott companies that profit from the production and

²⁵⁹ Summit for Social Development, Copenhagen, 6-12 March 1995,

sale of such weapons should be supported. This would reduce the number of conflicts and particularly in the Horn of Africa conflict system.

Sudan, being a member of UNCRC should properly incorporate the Convention into national legislation and programmes and particularly the new constitution that is still in the making. The new CPA provides room for the two parties to strongly speak out against the use of children as soldiers and promote the Optional Protocol to the Convention on the Rights of the Child, aimed at raising the age of recruitment into armed forces from 15 to 18 years. Advocacy campaigns against the use of child soldiers should be promoted and Sudan asked to comply with international treaties and laws she ratified.

There are so many NGOs working in Southern Sudan in the area of child protection. These NGOs and individuals should mount a vigorous public information campaign to ensure that parents, schools and policy-makers are familiar with local and international human rights standards and humanitarian law, such as the Universal Declaration of Human Rights and the Convention on the Rights of the Child and assist in creating an enabling environment for child rights activities. One of the reasons why there has been so many child soldiers in Southern Sudan forces is that the community is not aware of international legal instruments on the protection of children. Their ignorance of the law made it difficult for them to defend their children when they were being forcefully recruited.

SPLM/A and GoS have not yet given official acknowledgement of participation of children in the war. Official acknowledgement of children's part in a war is a vital step the while process of dealing with the problem. Peace agreements and related documents should incorporate provisions for the demobilization of

children. Without this recognition, there can be no effective planning or programming on a national scale.

Pediatricians, other doctors and health workers should be encouraged to disseminate child rights information and report violations encountered in the course of their work. Health professionals have a special obligation to speak out on any violation they see as they treat children.

Women's organizations and networks should be encouraged and strengthened as a way to maximize their contribution to protecting the rights of children. Their participation as key members of negotiating teams in peace missions, reconciliation forums and peace-building efforts should be supported.

The media should be encouraged and assisted in recognizing their responsibility in the promotion of child rights and the protection of children. They should highlight violation of children's rights. Abuses of children's rights ought to be reported to NGOs working in those areas, the United Nations Commission on Human Rights and local child representatives.

Community-level peace-building should be promoted and engage communities in grass-roots dialogues. As was rightfully recommended in the Alternative Report, there is need to review the Penal Code (in this case the Penal Code 2003), as well as existing customary law and recommend modifications required to bring it to compliance with the international instruments.

Laws should be drafted to criminalize all forms of harmful cultural practices including child (early) marriage, forced marriage, child betrothal, female circumcision (female genital mutilation) together with other cultural rites, customs and traditional practices that negatively affect the life and development of a child.

There is a vital need to come up with a birth registration regime for the whole of South Sudan to determine ages accurately so as to protect children against early or forced marriage and betrothal. Besides, the law should be enforced to ensure that human rights are respected and followed to the letter. Organizations need to undertake a comprehensive and thorough child rights appraisal of all the policies and the laws of South Sudan including the Constitution and recommend changes and amendments to the relevant offices and officers of the GoS and GoSS. There is also a need to examine the weakness in administration of juvenile justice in South Sudan by examining the implementation of the UNCRC and the ACRWC vis-à-vis the Penal Code, 2003 and the Criminal Procedure Code, 2003. Juvenile Courts should be established and if not then child magistrates should be trained accordingly. The Sudan new constitution, The Penal Code and the Bill of Rights within the Constitution of southern Sudan should expressly criminalize torture. Additions need to be made to the current Penal Code to include the whole range of sexual offences against children including indecent assault, pornography, and prostitution and trafficking for the purpose of sexual exploitation.

All law enforcement officials, judiciary, reformatory school and prison guards should be trained on children's rights. There is need to train paralegals who will bridge the gaps as there are not enough lawyers, especially those dealing with child issues. There should be a provision for the assessment of the maturity of children between 12 and 15 years of their understanding to judge the nature and consequences of any alleged criminal act.

The administration of justice of children in conflict with the law should ensure that each step is in the best interest of the child. Children Courts should be established and if not then children magistrates be trained accordingly. Children should have

access to legal counsel in the preparation and presentation of their defense. Children accused of committing crimes should be brought before the courts as soon as possible following their arrest and that their cases are prioritized and determined without delay. They should not be compelled to give testimony or confess guilt. An effective appeal system should be in place. Children should have access to interpreters when necessary. There is a need to come up with a diversion project whereby community members and trained police are mandated to handle some “not so serious cases” and thereby having the children diverted from the justice system. The diversion programmes should emphasize on non-custodial measures and be established in conformity with human rights and legal safeguards. Upon conviction, a variety of options for sentencing children should be available to the court including care, guidance and supervision orders, probation, foster care, education and vocation training programs and other alternatives to institutional care.

Reformatory schools or rehabilitation centers should lay emphasis on education, rehabilitation, treatment and re-integration of child offenders as opposed to punishment. The personnel working in the reformatory schools must undergo training on child rights to better equip them with the skills needed to help the children. The children should be offered psychological and social support while in the institutions. The differences in attitudes for boys and girls among the community also need to be recognized at the time of reintegration. Because of this, it is many times more difficult for girls to be reintegrated. One way of ensuring the correct response is to talk to the children themselves. There is a need for a comprehensive law dealing exclusively with the administration of juvenile justice.

Law enforcement officials need to be sensitized and trained concerning the provisions in the CRC and ACRWC regarding the prohibition of torture and

inhumane treatment and secondly, there is a need to have investigation and sanctions whereby law enforcement officials who violate these rights are punished. The Penal Code should clearly define who a juvenile is and the age when one is considered a juvenile for purpose of punishment.

There is need to sensitize the Government officials, the community and particularly the children to enable all of them better understand child rights. Since Sudan is a very big country, there is need to train paralegals that will bridge the gap as there are not enough lawyers. There is need for the creation and strengthening of a central bureau of statistics that will deal with among other issues the registration of births (and deaths) so as to have the ages of persons documented.

There is need to ensure that there is a centralized training and minimum standards requirements for the training of police officers, magistrates and judges. Such trainings should espouse child rights with a bias on how to deal with children in need of care and protection and children in conflict with the law.

If all these steps are taken and adhered to, the violation of child's rights would be minimized. Children would develop in an environment that is friendly and conducive for their social development. The opportunity to develop structures that will necessitate the protection of children from any harm is there. GoSS is a young government and as it develops systems and structures, children's issues should be at the core of its planning.

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