The Republic of Sudan
Multi – Donor Trust Fund-National

FEDERAL MINISTRY OF HEALTH

Resettlement Policy Framework (RPF)
For the Decentralized Health system development project

August 2007
1. Project Description

1.1 Introduction

The Decentralized Health System Development Project development objective is to improve access to basic health services by conflict-affected and underserved populations in four target states while increasing the capacity of the decentralized health system to establish the basis for health sector reform, sustainable financing, and development.

The project is to support different strategies for improving access to basic health services by underserved populations, including injecting resources into existing underfinanced public sector health services, reducing financial and social barriers to care, creating mobile and temporary clinics, contracting for-profit and non-profit private organizations and firms to support service delivery, and providing high-impact health interventions directly to households. The project is to invest in key inputs to the PHC system in the four target states, developing state and local health administration capacity, human resources, infrastructure and equipment. At the same time, the project is to support technical assistance to improve knowledge and allow the government to assess options for addressing important systemic issues, particularly sustainable financing of PHC services under the decentralized system. Other important areas for technical assistance and studies are pharmaceutical supply and human resources for health. Special attention will be given to building capacities in monitoring and evaluation. Developing the decentralized health system in the target states on a sustainable basis is to be a long-term endeavor and the project intends to support the initial steps, through pilot experiences, technical assistance, studies, and capacity-building, in order to lay the groundwork for sector-wide reform.

1.2 Project components

Component 1: Expanding access to primary health care services by underserved populations

The objective of this Component is, in the immediate term, to improve access to primary health care services and high-impact health interventions by conflict-affected and underserved populations in the target states.

Sub-component 1.1: Expansion of coverage of primary health care services and high-impact interventions. This Sub-component will support expansion of basic health services to improve coverage of conflict-affected and underserved populations in the immediate term.

i) In underserved areas with some functional government health services, the project will support injection of resources into the existing PHC system allowing reductions in user fees and drug prices. This will involve an integrated package of support to targeted health services to be implemented by existing government systems, with technical assistance by contracted consultants.
ii) In areas with no existing government services, the project will finance mobile and temporary clinics managed and supplied by the State MoHs and staffed by government health workers reallocated from better-served areas and States.

iii) Another strategy for areas with no government health services is to finance private for-profit and non-profit firms and organizations to provide services on a contractual basis. This could include expansion of coverage of services provided by non-governmental organizations (NGOs) already operating in underserved areas.

iv) Prioritizing populations with little or no access to facility-based health services, the project will support the provision of high-impact health interventions directly to communities and households, with particular focus on reducing barriers to accessing care for women and vulnerable groups. This is intended to put knowledge and resources into the hands of households to improve their own health and will include interventions such as distribution of long-lasting insecticidal nets (LLINs) for malaria prevention.

Planning and consultation in each of the target States, ongoing during project preparation, will determine the implementation strategies to be followed in each targeted locality as well as resource allocation and phasing within the States. Consultation will include the Federal and State MoHs, other government stakeholders, local authorities – particularly representatives of conflict-affected and underserved populations in the Three Areas – and non-governmental and community-based organizations.

Sub-component 1.2: Pilot experiences to reduce barriers to access to primary health care services. The objective of this Sub-component is to improve the knowledge and experience of the health authorities with possible strategies and interventions to reduce barriers to access to primary health care services, particularly by women, vulnerable groups and the poor in general. Pilot experiences will:

i) Evaluate the implementation, effect on service utilization, and financial feasibility of subsidies for primary health care services with a large impact on morbidity and mortality.

ii) Measure the cost and impact on service utilization of financing the health insurance premiums for all children under-five and pregnant women in an area where the State Health Insurance Fund is functioning.

iii) Assess the effect on health service utilization by women of interventions designed to address gender-related barriers to access.

Other pilot experiences will be implemented as needs and opportunities for learning are identified during project implementation.

Component 2: Establishing the basis for reform and development of the decentralized health system

The objective of this Component is to increase the capacity of the decentralized health system to establish the basis for sustainable financing, reform and development. This will involve three Sub-components.

Sub-component 2.1: Capacity-building and policy development. The objective of this Sub-component is to lay the groundwork for reform and development of the decentralized health system through technical assistance and studies on priority systemic issues as well as capacity-building in selected areas. This is to set the basis for reforms, the implementation of which is anticipated to be beyond the timeframe of the project.

i) Health care financing. The project will support technical assistance to provide a stronger information base on current health financing in Sudan, including household out-of-pocket
expenditures, National Health Accounts (NHA), and support the development of a reform strategy to improve financing of basic health services under the fiscal federal system. Work related to federal fiscal transfers and their allocation will be closely coordinated with other programs supporting the Fiscal and Financial Allocation and Monitoring Commission (FFAMC) created under the CPA. An in-depth study of the National Health Insurance Fund will be supported.

ii) **Pharmaceutical supply.** Technical assistance and studies will examine availability and barriers to access to affordable medication in order to inform the ongoing development and expansion of the Revolving Drug Fund system as well as improvement in the supply and logistics chain of the Central Medical Supplies (CMS).

iii) **Health planning, budgeting and management by target State and Locality health administrations.** Capacity-building and training will focus in the first phase of the project on the four target State MoHs. It will include institutional assessments to provide recommendations on organizational reform and development, and technical assistance and training in planning, budgeting, management and supervision. The project will support the Government’s Locality health system development efforts in the four target states, starting in phase one with support to the development of the policy framework in each state, including clear definition of roles and responsibilities, staffing and resource requirements, and sustainable financing arrangements. With the policy framework in place, the project will support in phases two and three training of local health administrators in planning, budgeting, and resources management.

iv) **Monitoring and evaluation.** Of particular focus for capacity building will be the monitoring and evaluation (M&E) functions of all three levels of government, including strengthening health management information systems (HMIS) and the capacity of administrators to effectively analyze and use data. Technical assistance at the federal and four target state levels will provide advice on the shape and structure of an effective M&E system in the context of a decentralized system. M&E of the project itself will contribute to the government’s experience and capacity in this area.

**Sub-component 2.2: Development of primary health care human resources.** This Sub-component will provide support to implementation of the FMoH human resources for health (HRH) strategy in the four target states, establishing the basis for improvements in the production, quality, and deployment and retaining of the PHC workforce. Of particular priority are medical technicians, nurses and midwives. The project will support the following:

i) **National human resources for health (HRH) strategy development.** The project will finance technical assistance to assist the development of sector-wide HRH strategies and policies, with a focus on PHC cadres.

ii) **State PHC human resource development strategies.** The project will support technical assistance to the State MoHs to carry out a needs assessment to determine HRH needs in the four target states, with a focus on PHC workers.

iii) **Curriculum review and instructor in-service training.** The project will support technical assistance to review PHC training programs and curricula. This will form the basis for support to refresher training for instructors.

iv) **Rationalization and investment in training schools and equipment.** In line with State-level HRH strategies, nurse and midwifery schools will be upgraded with physical renovation and equipment. Rationalization of training institutions will be done at the same time as new schools may be established in under-served states.
In Phase 1 of the project, situation analysis, policy and strategy development will receive the initial focus, as well as work on improving training curricula and programs. Teacher in-service training programs will be developed and limited rehabilitation of PHC training institutes will start. At the same time, the necessary assessments, planning and tender documents will be done to rationalize training institutions and plan new investment in subsequent phases.

Sub-component 2.3: Investment in primary health care infrastructure and equipment. This Sub-component will upgrade and expand the PHC infrastructure in the four target states, focusing on the areas where the network of health facilities is weakest. PHC facilities include health centers and district hospitals providing first-referral services, notably emergency obstetric care. The first phase of investment will consist of detailed planning, including assessment of the physical and functional status of PHC facilities, equipment needs, geographical distribution, identification of priorities for rehabilitation, and construction work, including the initiation of architectural studies. It is anticipated that the bulk of rehabilitation and construction will be carried out in phases two and three of the project.

Investment in PHC infrastructure and equipment will be closely coordinated with project’s immediate support to service delivery under Component 1. Health services in underserved areas receiving support under Component 1 will have priority in terms of capital investments so that they can transition to routine service delivery in permanent structures.

Sub-component 2.4: Project implementation. This Sub-component will finance the personnel and resources necessary to manage the project and coordinate the project activities at the federal and state levels. A Federal and State Project Implementation Units (PIUs) will be established with the necessary technical, procurement, financial management and monitoring and evaluation staff, recruited on a competitive basis.

1.3 Project location

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The project will provide support to the poor, underserved and conflict-affected states of Southern Kordofan, Blue Nile, Kassala, and Red Sea, which have a total population of approximately 5.1 million. These states include the “Three Areas”.

1.4 Justification for triggering OP/BP 4.12 related to Involuntary Displacement and land Acquisition

Component 1 and 2 of the project entails support and injection of resources into the existing PHC system allowing reductions in user fees and drug prices. This will involve an integrated package of support to targeted health services to be implemented by existing government systems, with technical assistance by contracted consultants. In areas with no existing government services, the project will finance mobile and temporary clinics managed and supplied by the State MoHs and staffed by government health workers reallocated from better-served areas and States.

Construction of multiple community infrastructures and the provision of community services may require the acquisition of land and sites. Depending on their status, the sites/land will be either donated by the community, the local government, private owners, or acquired. Because of the possibility of land acquisition, OP/BP 4.12 may be triggered during project preparation. At the time of project preparation, the location of the subprojects and the possibility and scope of land acquisition and involuntary displacement were not known at the level of each project, it has been decided to prepare a Resettlement
Policy Framework (RPF), which is the appropriate and designated tool for such a situation. The RPF will define roles, responsibilities, procedures and compensation rates to guide the preparation of the individual Resettlement Action Plans (RAPs) during implementation for the subprojects that will cause involuntary displacement and mandatory land acquisition of land owned or used by individuals, families or other entities.

The construction of health infrastructure and the provision of related services may require land acquisition. The World Bank Policy and requirements as stated in OP/BP 4.12 provides the guidelines to be followed. The World Bank OP/BP 4.12 details issues of involuntary resettlement, emphasizing the severe economic and environmental risks involved if unmitigated. The World Bank Policy Objectives urge that involuntary resettlement be avoided whenever possible. If unavoidable, the displaced persons need to:

- Share in project benefits;
- Participate in planning and implementation of resettlement programs;
- Be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre – displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

The World Bank Policy covers direct economic and social impacts that both result from Bank – assisted investment projects. This covers taking of land which may result in relocation or loss of shelter, assets, access to assets or loss of income resources or means of livelihood whether or not the affected persons must move to other locations.

This Resettlement Policy Framework (RPF) report covers the following elements:

- Project Description;
- Policy Trigger;
- Sudan’s Legal Framework and Land Laws;
- Mitigation Instruments;
- Procedures for Identification of Impacted Persons;
- Methods for the Resolution of Potential Conflicts or grievances;
- Responsibilities for the Implementation of Mitigation Measures;
- Monitoring Arrangements; and
- Conclusions and Recommendations.

2. Legal and Administrative Framework

The Sudan is a federal state divided into 25 States with special consideration given to Southern Sudan according to the Interim Constitution of 2005. The Constitution of the Republic of Sudan adopted on July 6th of 2005 reflects the Comprehensive Peace Agreement (CPA) of January 2005 and defines a new set of rules for governance in general, and land in particular. The two main elements of this new policy context are: a high level of decentralization of powers to States, together with the creation of a government of South Sudan (GOSS).

The need to preserve a high level of equality between states while awarding a high level of autonomy for South Sudan has been reached by giving all states a large level of autonomy, while building a specific regional level of government, GOSS in the South. This legal framework, is characterized by a somewhat asymmetrical (between North and South), but overall a decentralized system of governance is adopted by the Constitution. Hence, there are three levels
of authority; national level, state level and locality level. The powers over land are divided among the various levels. The Interim Constitution has five Schedules (A – F) which specifically state the powers of the various levels of government on land as shown in table (2.1)

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<th>Schedule (C) Powers of States: Regarding land governance, most powers –executive and legislative- are at State level:</th>
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<th>Schedule (D) Concurrent Powers:</th>
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<td>The National Government and state governments, shall have legislative and executive competencies on any of the matters listed below:</td>
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Regulation of land tenure, usage and exercise of rights in land.

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<th>Schedule (F) Resolution of Conflicts in Respect of Concurrent Powers:</th>
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<td>If there is a contradiction between the provisions of state law and/or a National law, on the matters referred in Schedule D, the law of the level of government which shall prevail shall be that which most effectively deals with the subject matter of the law, having regard to:-</td>
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The national government, based on Article 43 (2) of the Constitution, has the right to expropriate land for development purposes and compensate the owners. There are a number of articles related to natural resource management, protection of cultural heritage sites and respect of traditional and customary regulations related to land ownership. The Interim Constitutions also specifies land issues which are under national powers (federal level) and those under the control of states as well as joint powers (concurrent powers) shared by federal and states. The states manage lands which are not under national control. This include: management, lease and utilization of lands belonging to states, town and rural planning and agricultural lands within the state boundaries. The government powers include matters related to urban development, planning and housing, electricity generation, waste management, consumer safety and protection, water resources other than inter – state waters and regulation of land tenure and rights on land.

The Interim Constitution radically changes the relative powers of the different actors and stakeholders in the field of land by transferring large parts of the powers from the national to the state level. This requires introduction of reforms and changes to the present land laws to conform to the articles of the constitution. The land commissions to be established at national and state level are expected to play important roles in organizing land ownerships resolve disputes and set arbitration procedures.

2.1 Sudan Land Regulations
Specific national legislations on land are found in sectoral laws include:

- **Land Registration and Settlement Act, 1925**: provides rules to determine rights on land and other rights attached to it and ensure land registration.
- **Land Acquisition Act, 1930**: gives the government the power to appropriate lands for development purposes. It also states detail formalities of acquisition and rules governing assessment and payment of compensation.
- **Unregistered Land Act, 1970**: deems any unregistered land, before the enactment of this law, as being registered in the name of the government.
- **The Civil Transactions Act, 1984**: regulates the different matters related to civil transactions with respect to titles on land, means of land acquisition, easement rights and conditions to be observed by land users.
- **Urban Planning and Land Disposal Act, 1994**: regulates designation of lands for different purposes and urban planning. With respect to land expropriation for public
purposes, Section 13 of the Act recognizes the application of its predecessor – Land Acquisition Act 1930.

- **Central Forest Act, 1932**: empowers the Minister of Agriculture, Food and Natural Resources to declare to be a central forest reserve an area of land, which is registered under the Land and Settlement and Registration Act, 1925 as a Government Land (section 5). Unless with special licence or a permit has been first obtained from the Director of Forest, any Act, including entry upon or remaining in such forests would be an offence (Section 9 & 10 of Central Forest Act, 1932). Central forest reserves are located in the provinces of Blue Nile, Khartoum and Gezira (Schedule to the Act).

- **Provincial Forest Act, 1932**: protects an area in the Gezira Province as provincial forest reserve from being interfered with on the same principle as applied to the central forest reserve.

- **The Environmental Health Act, 1975**: contains detail provisions for the protection of water and air from pollution and assigns defined administrative responsibilities to District Councils with respect to preservation of environmental health in general.

**The Land Acquisition Act of 1930** outlines detailed procedures to be followed in the acquisition of land and rules governing payment of compensation for land for public purposes. The procedures for land acquisition in any locality are initiated with a notification by the People’s Executive Council in a Gazette stating that it appeared to the President of the Republic to authorize the acquisition of land for public purposes (Section 4). It is only after such notification that it shall be lawful to enter into procedures to set out boundaries, mark or survey the land.

An appropriation officer appointed by the People’s Executive Council would notify the occupant of land the declaration that a designated area of land is to be appropriated for public purposes; call upon persons claiming compensation to appear before him at place and time (not earlier than fourteen days) and to state particulars of their claims for compensation (Section 10). He must attempt to agree on the amount of compensation for land. The Act provides for further steps to be taken with regard to assessment of compensation if agreement is not reached.

Generally, these Acts provide procedures for land expropriation for development purposes and ways to specify rights in order to compensate the owner. The Urban Planning Act sets specific rules for the separation of industrial areas from residential areas. It should be noted that names of authorizing persons to initiate the process are changed according to federal system. Hence, the powers of initiation are vested on the Wali or local authority.

The reviewed Acts and laws provide standards to be considered in land acquisition. It is important to note here that State organs and local laws deal with issues at State or local levels, while the Federal Acts are more concerned with general directives and set limits according to national interest.

**2.2 Resettlement Principles According to World Bank OP/BP 4.12 and Sudanese Land Acquisition Policies**
The World Bank requirements are detailed in OP/BP 4.12. The directives outline the following principles:

1. Involuntary resettlement should be avoided where feasible or minimized by exploring alternative project designs. If not feasible to avoid resettlement, resources are to be provided to enable the displaced persons to share in the project benefits;

2. The population to be affected by the project are those who may lose as the consequence of the project, all or part of their physical and non–physical assets including homes, farms, productive land, properties, income earning opportunities, social and cultural relations and other losses that maybe identified in the process of resettlement;

3. All population impacted by the project should be consulted and given the opportunity to participate in planning and implementing resettlement programs;

4. All population affected by the project are entitled to be compensated for their lost assets and incomes at full replacement cost and assisted in their efforts to improve their livelihoods and standards of living to pre–project standards;

5. All affected population are equally eligible for compensation and rehabilitation assistance, irrespective of tenure status, social or economic standing and without any discrimination;

6. The World Bank policies stipulate that displacement or restriction of access to resources must not occur before necessary measures for resettlement are put in place. This includes provision of compensation and other assistance required for relocation prior to displacement to new sites with adequate facilities. For compensation purposes, preference should be given to land–based strategies for displaced persons whose livelihoods are land–based with land equivalent to the advantages of the land taken. If land is not available, options built around opportunities for employment should be provided in addition to cash compensation for land and other assets lost. In case of land–based livelihoods, cash payment may be appropriate if the land taken is a small fraction of the affected asset and the residual is economically viable particularly, if active market for land exists and the displaced persons have the opportunity to use such markets. Cash compensation should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

7. In all cases, the displaced persons and host communities receiving them are to be provided with timely and relevant information, consulted on resettlement options and offered opportunities to participate in planning, implementing and monitoring resettlement and appropriate mechanisms for grievance redress are established. It is also important that in resettlement sites or host communities, public services and infrastructure are provided and measures are to be taken to the extent possible to preserve the social and cultural institutions. Special measures are to be taken to protect socially and economically vulnerable groups and people living in extreme poverty.

According to legal and policy requirements of Sudan, particularly those related to land acquisition and resettlement of persons affected by development projects, the different land regulations as outlined in section 2.1 provide guidance and steps to be taken. The Land Acquisition Act, 1930, provides detailed steps to be taken for land acquisition and payment of compensation for claimants whether in cash or land for land. However, the Unregistered Land Act, 1970, deems any unregistered land as being registered in the name of government, while the local inhabitants have the right to use. This Act created some confusion regarding land acquired
through traditional and customary procedures. In some cases, land was taken for development purposes without considering the customary rights of use. This approach led to land-based conflicts particularly, if the land taken was given to investors from outside the local community. However, the Land Transaction Act, 1984, regulated transactions on land and recognized the rights of local users and outlined measures to be taken to compensate such users. This Act became a policy and applied mainly to those claiming cultivated land or property to be lost but ignores grazing and other common uses.

The most important and radical change is reflected in the Interim Constitution, 2005. The Constitution clearly recognizes the customary tenure and traditional customary regulations and right of use in common land. Furthermore, the constitution establishes National Land Commission and State Land Commissions to regulate land ownership and acquisition through arbitration and consultation of local users. Specifically, Article 43 (2) of the Interim Constitution gives the right for land acquisition for public use and compensation of the claimants either land for land or cash compensation and through committees to decide on replacement costs for lost assets. Still the issues on grazing land are to be solved by the Land Commission but as land is available for such uses, the traditional authorities assign grazing areas for nomads.

There are many similarities between the World Bank policies and the Sudanese policies despite the unresolved issues related to grazing lands. For the project under consideration, land is available for compensation, and in all cases, OP/BP 4.12 will prevail in case of people with no titles as nomads or squatters and measures are usually taken to support them so that they can lead a life at least equal to their pre-project life.

### 2.3 Customary Land Tenure

The above are formal legislations passed by the government to organize land tenure. However, most of Sudan’s lands are organized by customary and traditional rules and regulations. Private ownership is found only in areas along the Nile where land registration was carried according to Land Registration & Settlement Act of 1925. Most of areas away from the Nile (other than urban lands) are under traditional communal tenure where rights over land less than full ownership are recognized. Hence, in these areas four forms of land tenure emerged. These are:

1. Government lands with community rights;
2. Government lands with no community rights (unoccupied lands, wetlands, water catchments, etc);
3. Hawakir (land recognized as tribal homeland – Dar, or areas granted to individuals by previous Sultans);
4. Lease (licence): land granted by the government to investors for a limited number of years.

Within the customary land tenure, there is the tribal homeland (Dar) with demarcated boundaries recognized by neighbouring tribes and local authorities (e.g. Dar Hamar and r Dar Kababish in Kordofan). The tribal land is organized and supervised by Nazir (the chief tribal leader). Within the tribal land, there is clan land organized by Omda. Within the clan land, there are a number of villages, each with its land organized and controlled by the village Sheikh. Within the village land, each villager practices his private ownership respected and recognized by all. The
unclaimed land is used as range land or allotted to migrants by the village Sheikh provided that they respect the traditional rule of surrendering 1/10 of the crop to the Sheikh. As a general rule, land allotted to any person cannot be withdrawn unless he/she leave the village. Under such circumstances, the land abandoned by any person reverts to the community to be allotted to someone else. In all cases, the owner of the land is free to hire part of his land or dispose of it in the way he likes and after death, his children or relatives inherit the land.

These customary rules are to be respected in any development activity. Land needed for public use and according to Civil Transactions Act 1984, the owner must be compensated in any form – land for land, a small fee or in many cases, the village community willingly donate land needed for public use. It is not expected that the project in the areas selected will cause problems of displacement that needs compensation.

It should be noted here that pasturelands and water resources (pools) are communally owned and utilized. They are not appropriated by individuals and pasturelands are always defined as uncultivated lands. Nomads have corridors (Murhal) to avoid farms and allowed to utilize uncultivated areas. Tribal chiefs usually specify these routes and grazing areas for nomads. Generally, these Acts provide procedures for land expropriation for development purposes and ways to specify rights in order to compensate the owner.

The legal requirements are not confined to the above mentioned Acts. There are other important sectoral laws that must be considered and used as yardsticks to identify its relation to land acquisition. The Environmental Health Act of 1975 and the Public Health Act 1975, provide regulations and restrictions for industries regarding water and air pollutions (standards). According to these Acts, protection obligations extend to cover animal and plant life. Specifically, the Acts cover issues related to collection, treatment and disposal of waste. Also, they prohibit water pollution by addition of any solid or liquid wastes, chemicals, sewage and remains of animals on water resources such as rivers, hafirs, and wetlands. On the other hand, the Electricity Act of 2001 controls the electricity market. It provides regulations regarding the protection of network and standards regarding environmental protection. Article 9 of the said Act requires that any developer (investor) must comply with existing laws regarding roads, water courses, communication network, environmental issues and archaeological sites. Article 13 explains the environmental standards that must be taken into consideration when establishing power plants. Article 17 requires compensation to any damage that the project may cause to life and property.

Within the customary land tenure system, different forms of tenure may be identified according to land use. These include farmers’ tenure system, livestock raising, pastoralist tenure system, Gum Arabic tenure system, water spreading system and forest reservation system.

2.4 Formal Recognition

Formal recognition by the government as regards the customary tenure systems in the area is not well – defined. Registration of land as a formal procedure of government recognition is not applied in the project area.
Lack of such formal recognition and registration of land on permanent basis is considered by many proponents as advantageous and very much compatible with the rural conditions in the country. They always consider the following points of argument:

- Difficulty of keeping and sticking to one piece of agricultural land without shifting in case of dwindling soil fertility. This point is particularly valid in sandy soils and quz lands;
- Limiting the mobility of individuals and groups, particularly landless and nomads. Traditionally, customary procedure and communal ownership of the land accommodate and cater for such mobility;
- In case of permanent ownership of the land through formal registration, the native administration powers will be weakened and will lose respect and commitment of the people;
- Complication and cost of formal land registration may impose unnecessary burden on the rural poor.

However, there are some arguments in favor of land registration. Supporters of land registration in rural areas usually consider the following:

- Due to increasing trend of land commercialization in agricultural and industrial areas particularly alluvial soils, owners and transactions should be supported by formal land registration documents;
- Land registration documents are often officially required for eligibility of credit and agricultural and other facilities;
- Small holders will be protected from any future displacement in case of large development projects;
- Permanently secured ownership of land is more likely to induce and encourage rational use of land by the farmers and other users;
- Modern statutory legal system is more consistent, fair and free from any tribal bias than the native or tribal administration

2.5 Administrative Framework and Relevant Institutions

As mentioned earlier, the Interim Constitution 2005 radically changes the relative powers of the different actors in land issues by transferring a large part of powers from the national to the state level. Hence, the government sector legislations have to be revised to conform to the constitution.

At the national level, the key line Ministries with stake in land issues includes:

- Ministry of Agriculture and Forestry
- Ministry of Environment and Physical Development
- Ministry of Animal Resources
- Ministry of Wildlife and Tourism
- Ministry of Irrigation and Water Resources
- Ministry of Energy and Mining
- Ministry of Transport
All these ministries are now revising their mandates to be in line with the new constitution. For example, the Ministry of Environment and Physical Development revised its mandate given to her according 1994, Urban Planning and Land Disposal Act by transferring most of its powers to the State Ministry of Urban Planning and Public Utilities. The Federal Ministries are to carry out responsibilities of planning, coordination, provision of guidelines and capacity building.

At state level, the state authorities shoulder most of the responsibilities of both ministries and localities. The powers on land are exercised through the traditional Native Administration (Nazir, Mek, Omda, and Sheikh). As the result, the process for land acquisition starts by the lowest level of authority (the Sheikh) and goes up through the different state authorities concerned.

2.6 Steps for Resettlement and Registration of Land According to 1925 Act

In this respect, the 1925 Land Resettlement and Registration Act provide detailed steps to be followed. The steps start as follows:

1. Announcement of the intention to be published in the gazette or newspaper;
2. appointment of Resettlement and Registration Officer with specific powers;
3. The Officer makes an announcement in newspapers specifying the site (sketch map) and call for claimants to present their claims.
4. the Officer works in a committee composed of:
   - Representative or Survey Department
   - Local Government Officer
   - Land Registration Officer of the locality concerned
   - Local Leaders
5. After listening to claimants, the sketch map will be revised considering claims.
6. If the Officer becomes convinced, he registers the land in the name of the claimant(s). the land may be registered as:
   - Agricultural land;
   - Rangeland;
   - Specify rights in forest products;
   - Specify any other usufruct rights.
7. The office has to set aside specific land areas as village reserve.
8. All unclaimed land, abandoned land, and forest land are considered as owned by the Government

3. Compensation Eligibility

All PAPs and organizations (whether public or private or cooperative), who will lose land, buildings, houses, crops or sources of income, will be compensated according to the types and amount of their losses. People with no titles to land will be compensated according to OP/BP 4.12 requirements and hence, squatters will also be supported so that they can lead a life at least equal to the one they had before they became affected by the project. If the project encroaches on areas used for grazing by nomads, alternative land must be assigned for such use. The cut-off date for compensation eligibility will be set once all detailed measurements have been completed. The cut-off date usually starts from the date of announcement of intention.
Cultivating land, constructing buildings or settlements in the affected areas after the cut – off date will not be eligible for compensation. The cut – off date will be decided by Compensation and Relocation Committee in the shortest time possible so that affected persons to be able to restore their normal life as quickly as possible.

3.1 Procedures for Identification of Impacts
The community identifies a particular piece of land to construct a health service facility. It is the duty of State Project Implementation Unit to assess the legal status of the land using the Land Acquisition Assessment Guidelines (Annex 1). This is a very important tool that assesses the status of the site (Public land, Community land, Leased land, Individual land and others). Based on this assessment, the assessor provides recommendations on whether the community should look for another site, if donated by individuals, there should be a legal document showing such donation, if there is a problem on land, the project will be held back until the problem is solved or an alternative site is provided. The Land Acquisition Assessment findings should be signed by the Assessor, the Sheikh of the village and certified and stamped by the Locality Executive Officer.

3.2 Institutional Organization for Implementation
As reported earlier, the procedures for land acquisition for public purposes in Sudan involves the formation of Compensation and Relocation Committee which will be responsible for the planning, coordinating and monitoring compensation and relocation activities. The committee will be composed of:
- State Land Settlement officer from the concerned locality;
- Representative from Nazir (Native Administration);
- Village Sheikh;
- Land – use Planner (Urban Planner);
- Surveyor;
- Representative of PAPs.

The above is the standard procedure in the Sudan. However, experience in such localities and information gathered from the community showed that such structure is needed in many cases. As mentioned earlier, all villages have reserved land or village perimeter to be used for village expansion or for services. Such land is communally owned and under the control of the Sheikh with community consultation. Hence, the Sheikh and the Village Development Committee established by the project will work together to decide on land acquisition using the Land Acquisition Assessment tool. Their decision will be the responsibility of the State and Locality Implementation Unit in collaboration with the Village Development Committee and the concerned locality.

3.3 Grievance Redress Mechanism
In order to ensure that PAPs grievances and complains on any aspect of land acquisition, compensation and resettlement are addressed, all possible avenues will be made available for PAPs to air their grievances and a well defined grievance redress mechanism will be established
by the project. In the initial instance grievances will be dealt with by the Compensation and Relocation Committee. If the dispute persists, the preferred means of settling such dispute is by arbitration (Ajaweed). The Locality Compensation and Implementing Committee will address the matter. Should an agreement not reached at this level, the complaint maybe taken to Local Authority Level Compensation and Relocation Committee. If complaint is not resolved at this level, the aggrieved party has the right to appeal to court or law.

Special attention will be paid to vulnerable groups such as those experiencing extreme poverty, female headed households, and the aged for whom loss of land / property could lead to further hardship. In order to ensure that resettlement does not further exacerbate the conditions of those groups, certain consideration will be given to them in consultation with community representatives.

The basic principles for compensation are based on Sudanese Federal Laws and regulations stipulated by State Authorities and as outlined in the World Bank Operational Directives. The compensation should be fair and it includes the land as well as physical structures on land or crops and to ensure pre – project standard of living and to consider all PAPs, legal or illegally occupying the land. The principles also state that no land acquisition will take place prior to satisfactory compensation and resettlement of PAPs.

The schedule for implementing land acquisition and resettlement must by tied to compensation schedule so as to allow enough time for impacted persons to resume their normal life.

4. Monitoring Arrangements

It is the responsibility of the project to conduct regular monitoring of the resettlement performance operation (if any). This is to verify that the valuation of assets lost and compensation given has been carried according to Sudanese regulations and World Bank directives. It is also to verify that funds for compensation are used in accordance with the Resettlement and Compensation Committee. Normally, compensation is decided by a special technical sub – committee selected by the Relocation and Compensation Committee including representatives of the impacted persons. The Monitoring and Evaluation Unit within the project in consultation and participation of local community representatives and the State and Locality Implementation Unit shoulder this responsibility. The main indicators to be monitored include:

- Compliance with approved regulations;
- Payment or land compensation was carried before implementation schedule; and
- Information for grievance redness was made available to impacted persons.

The monitoring results will indicate the appropriateness of mitigation measures and enhancement of affected persons’ living conditions to pre – project standards. It may also indicate the degree of satisfaction and changes of the affected persons towards the project.

5. Resettlement Action Plans (RAPS)
The RPF is intended to guide the preparation of RAPs during implementation of sub – projects where needed. As land is plentiful and all villages have land reserved for development activities and designated as village perimeter or reserve, no problem arises in acquiring land for such social services. Since all the proposed activities under the project are of a special interest to the communities and since the communities participate in most of the procedures in assigning land for such services through the land acquisition assessment form, it is expected that the process will proceed smoothly.

Despite the expected smooth process in acquiring land for the sub – projects, it is important to provide procedures for the preparation of Resettlement Action Plans (RAPs) in case needed in other phases of the project.

Procedures for preparation of RAPs are detailed in Annex (3) which outlines the minimum elements to be included. Beside the consideration of the policy and legal requirements, RAP must survey the affected persons, their property and means of access to resources and to determine types of assistance needed bearing in mind the resettlement principles outlined in section (2.2). The RAP must identify compensation for loss of agricultural land, compensation for houses, loss of employment, business and allowances for moving or any other losses that may happen as the result of the project. In determining the extent of impacts on affected persons, the Compensation and Relocation Committee as outlined in section (4.2) will be responsible for planning, coordinating and monitoring compensation and relocation activities and settle any grievances.

6. Conclusions and Recommendations

The RPF discussed issues related to land acquisition. Important legal frameworks in the Sudan include the Interim Constitution (2005), which transferred most of the powers on land to the states. Also, the Constitution established Land Commissions at national and state levels to resolve conflicts over land. Beside the Constitution, there are a large number of sectoral laws dealing with land issues. All these sectoral laws provide procedures and details regarding land acquisition and rules governing assessment and payment of compensation.

Customary land tenure is still dominant in the targeted localities and is organized by traditional leadership (Native Administration).

The Sudanese legal requirements comply with the World Bank OP / BP 4.12 directives in the sense that both require fair compensation for the impacted persons and set procedures to resolve conflicts starting from the lowest level to the court of law.

The RPF suggests arrangements for monitoring and responsibility of the project to conduct such monitoring in case of resettlement operation. Such monitoring must be participatory involving local leaders and representatives of the impacted persons.

For smooth land acquisition, the following are recommended:
1. Involvement of local leadership particularly, Native Administration (Nazir, Omda, Sheikh) when selecting sites for public utilities;
2. Pay attention to customary land tenure regulations;
3. Pay attention to nomadic usufruct rights and avoid corridors set for the nomads;
4. Within government lands, consider right of use given to local communities; and
5. In deciding the market value of land, it is important to involve experienced persons to decide on the land value.
Annex I

Land Acquisition Assessment

The Tool

- Date:
- Name of the Assessor.
- Title of the Assessor.
- Affiliation

- Name of the site
- Location (village, Admin Unit, Locality and state)
- Size of the Site.

**Status of the Site**

- Public land with no use
- Public land with leased
- Community land.
- Individual land.
- Collective private land.
- Public land but squatted.
- Other status (specify).

**If public land with lease:**

- Who is using the land (provide the name of the beneficiary and the duration of the lease).
- What is the land used for.
- Is there any infrastructure? Yes □ No □
- If yes, specify

**If community land**

- What is the current use of land?
- Who is currently using the land?
- Is there any infrastructure? Yes □  No □
- If yes, specify

**If individual private land**
- Identify the owner
- What is the current use of the land?
- Who benefits presently from the land (owner or leased to someone else)
- Is there any infrastructure? Yes □  No □
- If yes, specify

**If Collective Private Land**
- Who are the owners
- What is the current use of the land
- Who benefits from the land (one, several or all the owners or leased to someone else or others)
- Is there any infrastructure? Yes □  No □
- If yes specify

**If public land but squatted**
- Who are the squatter(s) (name, identity and where he/she or they come from)
- What is the use of the land
- Is there any infrastructure put in place by the squatter/s? Yes □  No □
- If yes specify

**If other**
- What is the land used for
- Who uses it
- Is there any infrastructure? Yes □  No □
- If yes Specify
Conclusion/Recommendations: the Assessor provides recommendation based on the findings:

- Land is free of claims; it is public with no use: state that the sub-project can go ahead
- If public land but leased, the Assessor should recommend that the beneficiaries must get another lease or different site before the sub-project starts.
- If Community land or individual private land or collective private land and the owner(s) are donating the site on a voluntary basis, the Assessor should recommend that owner(s) provide legalized and signed document showing their good will to donate the land before the sub-project starts.
- If community land or individual private land or collective private land and the owner(s) or some of the owners are not willing to give the land voluntarily or somehow unhappy, then the Assessor should recommend that the sub – project be held back until the problem is solved or an alternative site with no claims is provided.
- If public land is squatted, the Assessor should recommend the sub-project to be held back until a suitable solution is found for the squatters including helping them find another place to settle.
- The Assessor could provide any other useful recommendation(s) including for land with other status.

Signature of the Assessor                                             Date

Signature of Sheik                                                   Date

Signature of Local Government Official                              Date
Annex II
Resettlement Action Plan

A Resettlement Action Plan (RAP) should include, at a minimum, the elements outlined below.¹

1. Introduction and Resettlement Problem

Describe the subproject and its location. Identify the executing agency and person(s) responsible for preparing the RAP, along with their qualifications.

Describe the subproject activities that will cause displacement and efforts made to reduce the number of people displaced. Describe the site and the services currently available (schools, houses of worship, public transportation, health posts, markets etc) and their distance from the site.

2. Legal Framework

Provide a brief review of local laws, regulations and procedures on land acquisition and resettlement. Where gaps exist between local laws and World Bank policy, describe the ways to bridge these gaps.

3. Survey of Affected Properties, Families and/or Businesses

Collect data to complete Tables 1, 2, and 3 below.

Include additional information on dwelling value, willingness to be resettled, consultation meetings, etc.

4. Impacts Caused by Displacement

Provide the necessary level of detail to capture the extent of the impact of displacement. At a minimum complete Tables 4a and 4b.

5. Proposed Assistance to Resettled Families

Provide a detailed description of the types of assistance (e.g., compensation, resettlement to new housing, assistance for relocation) to be provided to oustees. Also describe the terms of agreement with oustees and the willingness of oustees to work with the discussed assistance and timetable. In addition:

- Describe how efforts will be made to restore or enhance incomes;

¹ Source: Simplifying Safeguards: Addressing Environmental & Social Issues in Health Projects. World Bank, SMART (Draft 1Feb04)
Describe how special attention will be given to people who are aged, invalids, single mothers or otherwise in need of special assistance;

Describe how access to services will be restored or enhanced;

Show how families or community groups will be preserved;

Describe measures to reestablish socioeconomic networks; and

Describe possible impacts on host groups and measures taken to avoid rejection or other negative reactions.

Using Table 5 below, identify the solutions agreed to with each oustees.

6. Responsible Agency

Provide the name of the entity that will be responsible for monitoring and implementation of activities involved in implementing the RAP.

7. Source of Budget and Cost Estimate

Include the cost of land, housing, moving costs, administrative costs, moving allowances, and settle-in allowances.

8. Resettlement Schedule

Describe the resettlement schedule, including the activities involved, dates, and budget, along with pertinent comments. Include any follow up activities to assess whether oustees have been able to reestablish their livelihoods/living situation. This schedule should be tailored to correspond to the schedule for design and construction of the civil works, and should be presented as in Table 6 below:

9. Monitoring/Follow Up Activities

Describe how the responsible agency will follow up the implementation of the Plan and address activities required to achieve the goals of the Plan.

10. Evaluation

Describe how evaluation of the Plan will be conducted. No later than 6-12 months after the relocation date, the responsible agency should make reasonable efforts to locate and follow up on the relocated families to determine if they have been able to reestablish their livelihoods and living situation. If this is not the case for any or all of the persons relocated, further assistance should be provided by the responsible agency.
### Table 1: Property (Goods and Assets Affected)

<table>
<thead>
<tr>
<th>Household number¹</th>
<th>Business number²</th>
<th>Name of household head or business owner</th>
<th>Plot area</th>
<th>Description of houses and constructions</th>
<th>Uses of the property (housing, economic activity, other)</th>
<th>Level of effect (total, partial, minimum)³</th>
<th>Tenure status (titled owner, owner without documents, tenant, sharecropper, etc.)</th>
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¹ Households should be defined as commensal units i.e. people who eat out of the same pot.
² Business should be defined as any economic activity.
³ “Partial” in cases where family/business can develop activities involving listed goods and assets; “Total” where activities cannot be developed as a result of displacement.
⁴ If they are not owners, include the name and address of the owner.

### Table 2: Socioeconomic Characteristics of Families

<table>
<thead>
<tr>
<th>Household number¹</th>
<th>Name of household head</th>
<th>No. of persons in household</th>
<th>No. of children &lt;13 years of age</th>
<th>No. of adults +60 years of age</th>
<th>No. of students</th>
<th>Sources of income</th>
<th>Place of work or study and distances</th>
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### Table 3: Socioeconomic Characteristics of Business

<table>
<thead>
<tr>
<th>Business number</th>
<th>Name of business owner</th>
<th>Age of business owner</th>
<th>Type of activity</th>
<th>No. of employees</th>
<th>Monthly income average</th>
<th>Destination of production</th>
<th>Place of selling</th>
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### Table 4a: Impacts Caused by Displacement (Households)

<table>
<thead>
<tr>
<th>Household Number</th>
<th>Loss of land</th>
<th>Loss of house</th>
<th>Loss or decrease of income</th>
<th>Loss or difficulty of access to educational services</th>
<th>Loss of access to health services</th>
<th>Loss of access to public services</th>
<th>Loss of social networks</th>
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### Table 4b: Impacts Caused by Displacement (Businesses)
<table>
<thead>
<tr>
<th>Business Number</th>
<th>Loss of land</th>
<th>Loss of Business place</th>
<th>Loss or decrease of income</th>
<th>Loss of economic networks</th>
<th>Comments</th>
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**Table 5: Agreed Solutions**

<table>
<thead>
<tr>
<th>Household or business number</th>
<th>Resettlement Solution</th>
<th>Comments</th>
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</table>
Table 6: Resettlement Schedule

<table>
<thead>
<tr>
<th>Activities</th>
<th>Dates</th>
<th>Budget</th>
<th>Comments</th>
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<tbody>
<tr>
<td>Planning of census and surveys</td>
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<tr>
<td>Information to people affected</td>
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<tr>
<td>Conduct census and socioeconomic survey</td>
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<tr>
<td>Analysis of data and identification of impacts</td>
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<tr>
<td>Definition of assistance measures</td>
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<tr>
<td>Relocation/assistance</td>
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<tr>
<td>Follow-up Visit by Responsible Agency</td>
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