



Protection Sector, Sudan

## Protection and Human Rights Considerations

### Preparedness and Response to COVID-19 for the Sudan

#### **Background:**

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The outbreak of COVID-19 was declared a pandemic by the World Health Organisation on 11 March 2020 after the virus had spread to majority of the countries, hundreds of thousands of people affected and thousands passed away. Currently, there are 32 reported cases of COVID-19 in Sudan including 5 deaths, 4 recovered and 24 cases remain in the isolation centers. Preparedness and Prevention measures are therefore critical at present. It is our collective responsibility to support the Government of Sudan in its preparedness and response plan and strengthening related facilities and mechanisms. Most importantly, the measures to halt the spread of COVID-19 should be grounded on a human rights-based approach and must respect and protect human dignity.

International human rights law provides for adequate protection of the right to health by state parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12(2) of the ICESCR in particular requires states to take positive measures to ensure the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” This includes necessary measures for the “prevention, treatment and control of epidemic, endemic, occupational and other diseases and the creation of conditions which would assure to all medical service and medical attention in the event of sickness.” A critical element of the realization of the right to health relates to state obligations to ensure that health facilities, goods and services are available, affordable and accessible to those in need on the basis of non-discrimination.

They must be cognizant of the fact that human beings have an equal right to health care, and provided without discrimination on the grounds of race, color, nationality, political opinion, membership of a particular social group, age, ethnicity or any other grounds (including refugees and IDPs). It is also important to highlight that pursuant to Sustainable Development Goal (SDG) 3, Sudan is committed to ensure healthy lives and promote wellbeing for all at all ages. Moreover, SDG target 3.d, calls on the United Nations with the support of the international community, to strengthen the capacity of all countries, in particular developing countries, for early warning, risk reduction and management of national and global health risks. Therefore, best practice in the prevention and response to COVID-19 rest on a mutually reinforcing inalienable right to health, development, social protection and upholding the principle of leaving no one behind enshrined in the Agenda 2030 for Sustainable Development.

While COVID 19 does not recognize any borders or social status, it can easily affect the most vulnerable population in Sudan, including 1.87 million IDPs and 1.1 million refugees, asylum seekers and an unknown number of returnees and IDPs in SPLM-N controlled areas of South Kordofan and Blue Nile States. Floods in 2019, inter-communal clashes, food insecurity and subsequent displacement, have affected the resilience and coping mechanisms of families and individuals and strained the humanitarian response system. Majority of the IDPs and refugees are living in camps, gathering sites and host communities without quarantine/isolation options, no or limited access to basic health-care services, compounded by malnutrition, inadequate water and sanitation facilities, and communicable diseases; logistical challenges resulting from the remoteness of locations or ongoing insecurity; inadequate surveillance/early warning systems to detect cases in remote locations; and poor links to



national disease monitoring systems. These problems put them at greater risk of not being able to exercise their fundamental right to health, exposing them to COVID-19 infections.

Additionally, health facilities and health care workers were not spared from the violence during the armed conflict and, in some circumstances, were directly targeted. Data collected by United Nations agencies in 2016 indicated that 28 per cent of primary health care facilities across Darfur were either closed, damaged or not fully functional. These facilities do not exist or are in much worst condition in SPLM-N controlled areas as well as in SLA/AW areas of Jebel Mara. This situation is due to a combination of factors, including inadequate funding and staff attrition, attacks against medical facilities and displacement of medical personnel and humanitarian access. Health facilities, those away from urban centres have been destroyed<sup>1</sup> or occupied and supply chains for medical equipment and medicines have been disrupted. Should the COVID-19 pandemic hit more Sudan, the population would be at substantial risk, particularly those with chronic medical issues, older persons, separated and unaccompanied children, persons with disabilities, persons in detention, pregnant women, and those living in refugee or IDP camps or gathering sites/host communities including congested urban areas.

The COVID-19 outbreak is a public health emergency, which in the context of Sudan's lack of any viable national social safety net, poses multiple protection challenges and threats to human rights. In large part as a result of the armed conflict, public health services are not able to provide prevention, treatment and control of epidemic, endemic, occupational and other diseases for all persons living in the country. Additionally, the prevention and response therefore cannot be only medical, but must also address human rights and protection challenges, whether they arise from the health crisis itself or measures to contain it. While recognizing the right of any state to place proportionate restrictions to preserve public health, the absence of due process of law in Sudan may affect fundamental rights to freedom of movement, the right to leave and return to the country, including through the arbitrary closure of borders.

This paper therefore **provides for a set of protection and human rights considerations** for the international community, humanitarian actors, donors and the Government of Sudan to take into account in their Prevention and Response (hereinafter referred to as *Response*) plans for COVID-19.

#### **Human rights and Protection Considerations<sup>2</sup>:**

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- i. **Ensure human rights and protection are central to the *Response*** – The *Response* programming to COVID-19 must be rights-based, with the Government bearing the primary responsibility to protect the human rights of its people and all other persons living in Sudan. Key rights which would be implicated are the right to non-discrimination, the right to life, enjoyment of the highest attainable standard of physical and mental health; access to services and physical integrity, rights to participation, access to information, food and the right to freedom of movement and residence, among others. Attention must be paid to the rights of the most vulnerable groups of population, such as women, children, persons with disabilities, elderly, homeless, migrants and refugees and national, ethnic or religious minorities.

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<sup>1</sup> Recent inter communal conflict in El Geniena, incidents in Sortony, Kabkabiya.

<sup>2</sup> Sudan is party to CESCR, which under its article 12 stipulates:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>



A rights-based approach demands inclusion and participation of affected or potential communities in the Response. This also includes promoting accountability and transparency on the part of those providing interventions.

**Key considerations include:**

- Internet access is essential to ensuring that information reaches those affected by the virus. Governments should ensure the broadest possible access to internet service, and take steps to bridge digital divides, including the gender gap.
- People have a right to participate in decision-making that affects their lives. Being open and transparent, and involving those affected in decision-making is key to ensuring people participate in measures designed to protect their own health and that of the wider population.
- Medical professionals and relevant experts, including scientists, must be able to speak freely and share accurate and vital information with each other and the public. Concerted efforts should be made federal and local levels to counter false or misleading information that fuels fear and prejudice.
- Incorporating the perspectives, voices and knowledge of women in outbreak preparedness and response, including ensuring their representation and leadership roles in national and local COVID-19 spaces.

In a nutshell, application of the rights-based approach will aim to avoid, to the greatest degree possible, further exacerbating existing vulnerabilities of those most at risk in the course of preparedness planning and response.

- ii. **Access to health care and other assistance without discrimination** - The right to health must be enjoyed without discrimination on the grounds of race, gender, age, ethnicity, or any other status. Affected persons and communities must be supported with adequate access to clean water, healthy food, waste disposal, and soap wherever they are. Psychosocial support should be available for all persons, including children who may be affected by the outbreak. National and international funding that is being mobilized to fight the virus should also include resources for forcibly displaced communities (IDPs, refugees), IDP and refugee returnees. This can come in several forms, including the creation of new, mobile or temporary health facilities near displacement sites, setting up screening centres and mobilizing additional health workers.
- iii. **Enhance people's safety, dignity and rights and avoid exposing them to further harm** – Protection of individual privacy and patient confidentiality will be crucial in encouraging those who are ill to seek medical help, by reducing the perceived social costs (stigmatization) of acknowledging that one is ill and seeking medical care. This may involve allowing individuals the possibility to seek care in a manner that will not unnecessarily compromise their personal privacy. It may include voluntary testing, the physical location of any treatment facilities or it may concern sensitive handling of their patient's medical records. Therefore, seeking informed consent of the individual concerned is essential. Specific plans for the respectful, dignified, and culturally appropriate disposal of the deceased should be made.
- iv. **Support the realization of the right to adequate standards of living:** "Housing has become the front-line defense against the coronavirus."<sup>3</sup> Like in other countries, GoS relying on people to stay home to prevent the spread of the novel coronavirus. Therefore, related actors must take urgent

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<sup>3</sup> Leilani Farha, UN Special Rapporteur on the right to adequate housing.  
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25727&LangID=E>



measures to prevent anyone falling into homelessness and ensure access to adequate housing for those without. This is going to affect particularly “those living in emergency shelters, homelessness, and informal settlements, and those facing job loss and economic hardship which could result in mortgage and rental arrears and evictions.” Those living in homelessness and grossly inadequate housing, often in overcrowded conditions, lacking access to water and sanitation – making them particularly vulnerable to contracting the virus, as they are often suffering from multiple health issues.

At a minimum, to ensure protection of those living in homelessness or grossly inadequate housing, and people at risk of displacement due to clashes, States, with the support of the international organizations must: take necessary measures, prevent forced evictions/displacement; provide emergency housing with services for those who are affected by the virus and must isolate; ensure that the enforcement of containment measures (eg: curfews) does not lead to the punishment of anyone based on their housing status; provide equal access to testing and health care; and provide adequate housing which may require the implementation of extraordinary measures as appropriate in a state of emergency, including using vacant and abandoned units and available short-term rentals. “By ensuring access to secure housing with adequate sanitation, States will not only protect the lives of those who are homeless or living in informal settlements but will help protect the entire world’s population by flattening the curve of CV19,”<sup>4</sup> the UN expert concluded.

- v. **Preparedness** - While working with the national authorities, humanitarian actors should advocate for the implementation of prevention and response measures to address COVID-19 in compliance with international standards and are aligned with a human rights-based approach. The specific needs and experiences of persons most at risk of infection and most vulnerable to the impact of COVID-19 are reflected in the *Response* plan.

Disseminating clear and accurate information on the prevention, early diagnosis and treatment of COVID-19, as well as the status of efforts to address its spread, should be a priority. The government should inform the population about COVID 19 and sensitize them rapidly, regularly, and transparently on preventive measures to limit the spread of COVID 19. International public health agencies, in partnership with local health authorities and humanitarian agencies, must ensure that accurate information and practical advice is provided to these communities in a clear, easy to understand and transparent manner tailored to the specific information needs of various groups including linguistic minorities, persons with disabilities impacting the ability to read, hear, or otherwise communicate, persons without formal education, children, and others.

Humanitarian agencies should aim to reduce human exposure to this virus by informing communities of risks of exposure and risk avoidance. All Clusters and Agencies should support such efforts through integration of these activities into their programmes such as in FSL, WASH, CCCM, or nutrition programmes.

Communities have to be fully engaged in the planning, decision-making and implementation of activities in order to have a comprehensive response. Existing community perceptions and beliefs may undermine the response, including exacerbating the proliferation of the virus and stigmatizing those who contract it. Their full engagement is therefore fundamental to avoid discrimination of the affected, to guarantee implementation of mitigation measures and to ensure that communities are informed about and participate meaningfully, to the extent possible, in the assessment of the impact of the outbreak and to the development of solutions. There is also a

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<sup>4</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25727&LangID=E>



need to promote feedback and complaint mechanisms and collect information through the existing ones.

Life-saving assistance interventions that are identified or should be at an early stage to allow adequate time for incorporating/continuing the incorporation of protection and human rights principles into operational planning. These functions include: *delivery of food and safe water; provision of essential health services; supplying essential materials such as soap and essential medicines/supplies; ensuring security/protection for the population, staff and good/supplies; ensuring fuel/other supplies to enable cooking, functioning of generators, ensuring that appropriate and timely information is available to inform decision-making and response through regular communication with external networks and agencies.*

As the entity with the primary responsibility for the protection of civilians, as well as the promotion and protection of human rights for those within its territory, the **Government is duty-bound to provide safe and secure access** to basic needs/services as mentioned above, in particular with regard to health services and medical treatment, in affected or potentially affected areas. Intercommunal violence, crop destruction and incidents over access to land and water taking place in affected areas has the potential to further hinder access to the limited health services presently available in Sudan. It would be incumbent upon the Government of Sudan to ensure that such access is secured.

- vi. **Needs assessment of vulnerable categories/individuals** – The *Response* programming must take into account the special needs of vulnerable persons population who would be at substantial risk, particularly those with chronic medical concerns, elderly, separated and unaccompanied children, persons with disabilities, persons in detention, pregnant women, and those living in IDP, refugee camps or informal displacement settings including congested urban areas.

It should be noted that humanitarian programmes that support women and girls are normally disrupted during public health emergencies, when, paradoxically, the vulnerabilities of women and girls are amplified. With the onset of COVID-19 virus transmission in Sudan, women and girls may face heightened risks due to social pressure to conform to traditional roles as caregivers. Women and girls may therefore face increased risks of infection, vulnerability due to loss of means of livelihoods, lack of access to education for girls (who may be forced to leave school to undertake caregiving duties); and inadequate access to other basic services. If not well-supported, women and girls in such roles may also become vulnerable to psychosocial distress.

Women may disproportionate risks in the job sector as well, where many women work in informal sector (e.g. domestic workers, nannies, agriculture or supporting family businesses) and may be the first to lose their jobs or suffer from the consequences of the crisis given that they do not have social security, health insurance, or paid leave. Across Sudan, there is a big number of women involved in the informal sector as a means of livelihood e.g. tea sellers, vegetable sellers as well as women selling firewood and thus they are likely to be affected by the current situation. Sudan also has a high population of irregular migrants especially in Khartoum who already face protection risks which might be exacerbated by the situation. The closure of borders may heighten trafficking and human smuggling in border areas and which will increase risks for asylum seekers.

The *Response* must take into consideration the specific needs of a diversity of persons with disabilities, including persons with mental health conditions. Persons with disabilities face barriers that increase risk in humanitarian contexts, barriers that also have gender-specificities. “Barriers can be either classified as a threat if put in place purposefully by an actor or as a vulnerability if happening as an inadvertent act. In both cases, these barriers lead to exclusion, which increases



the likelihood of persons with disabilities to face threats and vulnerabilities at a higher level than the rest of the crisis-affected population.” By making use of enablers (such as support services in camps, facilitated access to food distribution points, or acquisition of assistive devices), persons with disabilities can improve their individual resilience. Falling risk and rising resilience imply improved protection.

People deprived of liberty, including in prisons, pre-trial detention, institutions and other places of detention are at heightened risk of infection in the case of an outbreak. Since prisons and places of detention in Sudan are overcrowded, there is a high risk of contamination and social distancing is difficult to achieve. Hence their situation should be specifically addressed in crisis planning and response.

Stigma and discrimination related to COVID-19 may make children more vulnerable to violence and psychosocial distress as well. The numbers of unaccompanied and separated children, those who are in Khalwa(s), reformatories may also increase, and alternative arrangements for psychosocial, educational, and family support may be needed.

Disruption of livelihood and closure of schools may place children at risk of forced recruitment or other negative coping mechanisms therefore Response plans must take into account the direct and indirect risks that children may be exposed to. Therefore, COVID-19 pandemic is generating a wave of stigma, discrimination, racism and xenophobia against certain national and ethnic groups. We need to work together to push back against this trend, including by referring to this disease as COVID-19, rather than using a geographic reference. The dissemination of accurate, clear and evidence-based information and awareness-raising campaigns can be effective tools against discrimination and xenophobia, which feed on misinformation and fear.

While the likelihood of diverting humanitarian funding and other resources into prevention and response to COVID-19 remains a reality, humanitarian actors should ensure continued prioritization of programmes for response to protection and other incidents including violence against women, boys and girls in order to continue efforts to provide life-saving critical humanitarian assistance to those in need.

- vii. Lockdowns, quarantines and other measures to contain and combat the spread of COVID-19 and limit the right to freedom of movement and residence** – Emergency powers must be used for legitimate public health goals, not used as basis to quash dissent or silence the work of human rights defenders or journalists. Some rights are non-derogable, including the principle of non-refoulement, the prohibition of collective expulsion, the prohibition of torture and ill-treatment, the use of arbitrary detention, and others. Therefore, government should inform the affected population of what the state of emergency means, where it applies and for how long it is intended to remain in effect.

Restrictions of movements, quarantines and lockdowns should always be carried out in strict compliance with human rights standards and be strictly necessary and proportionate to the evaluated risk. Many of the measures taken, such as the closing of borders, curfews, and quarantines, traveling by buses between the cities can have an impact on the freedom of movement and restrict access to health care, food, water and sanitation for those living in neighborhoods and villages of affected areas. Quarantines, which restrict the right to freedom of movement and residence, may be justified under international law only if they are proportionate, time-bound, undertaken for legitimate aims, are strictly necessary, and applied in a non-discriminatory way. Quarantines must be imposed in a safe and respectful manner, and when possible, should be voluntary. The rights of those under quarantine must be respected and



protected, such as the right to food, the right to be treated humanely, the right to health, the right to privacy and information, right to access potable water and freedom to practice one's religion.

Restrictions on the freedom of movement and residence of displaced persons in need of protection solely on suspicion of being infected with COVID-19 would raise human rights concerns and must adhere to the provisions of necessity and proportionality cited above. Special provisions should be made to enable the movement of persons who seek safety from violence or persecution to ensure that the least restrictive means are used to prevent COVID-19 transmission and that these individuals have an option to seek safety, in order to avoid discrimination as well as violation of the fundamental rights to liberty and security of the person, and the right to freedom of movement and residence. In addition, affected refugees and asylum-seekers should not be denied access to territories and asylum procedures as COVID-19 does not create a bar to accessing asylum procedures for refugees seeking asylum in Sudan. Furthermore, COVID 19 should not constitute a ground for refoulement or expulsion to third country<sup>5</sup>.

- viii. **Conflict sensitivity** – if COVID-19 penetrates communities, this could provide a trigger for potential violence in some communities, including inter-communal or inter-clan violence. The response to COVID-19 must take into account principles of conflict sensitivity in addition to the humanitarian principles, rights-based approach, and core principle of non-discrimination outlined above. Due consideration must be afforded to any increased conflict drivers potentially presented by the disease. Conflict mitigation, community/social cohesion, and sensitization initiatives should take this into account.
- ix. **Prevention of and protection from Sexual Exploitation and Abuse** - Appropriate measures need to be taken to ensure the protection of affected communities against sexual or physical violence and exploitation. Special attention must be paid to children and especially unaccompanied and separated who would be more vulnerable. In the event of a worsening situation, and limitation of movement, direct service delivery for GBV survivors maybe affected. This would exacerbate an already fragile service delivery system leaving survivors without much needed services. Life-saving care and support to GBV survivors (i.e. clinical management of rape and mental health and psycho-social support) may be disrupted in major hospitals when health service providers are overburdened and preoccupied with handling COVID-19 cases. Service delivery for GBV survivors continues and GBV cases continue to be treated with the urgency and care they deserve.
- Humanitarian workers should be aware that restrictive public health measures, including quarantines, might increase exposure to gender-based violence, particularly intimate-partner violence and domestic violence. Support services and safe shelters for victims of gender-based violence need to be continued as a priority, including effective referrals, and ensuring the availability and accessibility of avenues to safety for victims. Indeed, information on hotlines and online services should be included in COVID-19 messaging.
- x. **Coordination forums** – Humanitarian or government led task force or coordination forums for COVID-19 preparedness and response must include the participation of protection and human rights actors. Human rights and Protection actors must be engaged in the early stage with the UNCT/HCT and participate in the COVID-19 task team to ensure the centrality of protection and

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<sup>5</sup> See Arts 26, 31-33, UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <https://www.refworld.org/docid/3be01b964.html> and UN General Assembly, Protocol Relating to the Status of Refugees, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, available at: <https://www.refworld.org/docid/3ae6b3ae4.html>  
See also UN High Commissioner for Refugees (UNHCR), Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response, 16 March 2020, available at: <https://www.refworld.org/docid/5e7132834.html>  
For authority on the rights of IDPs including freedom of movement and right to liberty and security of person, see Arts 5 and 9, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2009.



human rights approaches are considered in discussions and planning of activities with other areas and clusters/sectors. The response to the outbreak of the virus has to involve all the clusters and protection must be mainstreamed through the multi-cluster approach.

- xi. Enhancing staff safety and duty of care** - Promote the safety, self-care and psychosocial wellbeing of the humanitarian personnel or frontline teams including provision of PPE. Moreover, the frontline teams should be adequately briefed on preventive measures and practices to keep themselves protected from the virus and should be provided with regular supervision, technical guidance and emotional debriefing. Frontline workers especially women could be vulnerable to abuses and insults from patients and caregivers due to intense stress of the disease and negative coping mechanisms. At the community level they may be isolated which may affect them emotionally.