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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Report of the Independent International Fact-Finding Mission for the Sudan*

Summary

In the present report, submitted pursuant to resolution 54/2, the Independent International Fact-Finding Mission for the Sudan outlines the findings of its investigations into violations of international human rights law and international humanitarian law, and related crimes, committed in Sudan in the context of the conflict that erupted in mid-April 2023. The report also contains recommendations, including on accountability and support for victims.

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

I. Introduction

1. In its resolution 54/2 of 11 October 2023, the Human Rights Council established the Independent International Fact-Finding Mission for the Sudan composed of three experts, for an initial period of one year. The Fact-Finding Mission is mandated *inter alia* to investigate and establish the facts, circumstances and root causes of all alleged violations and abuses of human rights and international humanitarian law, and related crimes, in the context of the ongoing armed conflict that began on 15 April 2023, between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF), as well as other warring parties.¹ The Council requested the Fact-Finding Mission to present a comprehensive report of its findings at its fifty-seventh session.

2. On 18 December 2023, the President of the Human Rights Council appointed Mohamed Chande Othman (Tanzania) (Chairperson), Mona Rishmawi (Jordan/Switzerland) and Joy Ngozi Ezeilo (Nigeria) to serve as the three independent experts. Due to the liquidity crisis faced by the United Nations Secretariat, the Fact-Finding Mission's Secretariat was only established in May 2024, in Nairobi, Kenya, and composed of approximately two-thirds of the allocated staff. Prior to its establishment, a small start-up team was provided by the Office of the High Commissioner for Human Rights (OHCHR), for which the Fact-Finding Mission is grateful.

3. The present report outlines the findings of the Fact-Finding Mission since the outbreak of the conflict in Sudan in mid-April 2023. The Fact-Finding Mission is also producing a conference room paper containing detailed information and analysis. The draft report was sent to the Government of Sudan on 23 August 2024 for its views on factual inaccuracies by 1 September 2024. The Fact-Finding mission did not receive a response.

II. Methods of work

A. Engagements and Consultations

4. Pursuant to its mandate, the Fact-Finding Mission has engaged with Sudanese community leaders, civil society organizations, victims and survivors,² experts, organizations and entities involved in the situation in Sudan, including United Nations agencies, and diplomatic missions. These engagements were conducted both online and in-person during missions to Chad, Kenya, Switzerland, and Uganda.

5. The Experts conducted an initial mission to Geneva in January 2024, a second mission in June 2024, and held consultations with the United Nations High Commissioner for Human Rights and his Office, and the President of the Human Rights Council.

6. Additionally, the Fact-Finding Mission held discussions with the designated Expert on human rights in the Sudan, the Personal Envoy of the United Nations Secretary-General for Sudan, the Under-Secretary-General and Special Adviser on the Prevention of Genocide, the Special Representative of the Secretary-General on Sexual Violence in Conflict, the Special Representative of the Secretary-General on Children and Armed Conflict, the Panel of Experts on the Sudan, and other senior United Nations officials. The Fact-Finding Mission also engaged with the Sudan Country Rapporteur of the African Commission on Human and Peoples' Rights, the African Union Special Envoy for the Prevention of Genocide and other Mass Atrocities, and the International Criminal Court. It also reached out to the African Union, the League of Arab States, the Intergovernmental Authority on Development (IGAD), and the Organization of Islamic Cooperation with requests for dialogue and cooperation, to coordinate efforts and ensure complementarity, as required by Resolution 54/2.

7. The Fact-Finding Mission reached out to the Sudanese authorities on four occasions (3 and 29 January, 7 June and 9 August 2024), requesting to visit Sudan. These

¹ A/HRC/RES/54/2.

² The term survivor should be read as interchangeable with victim as defined by A/RES/60/147, para. 10.

communications remained unanswered. The Fact-Finding Mission remains open to engaging with the Sudanese authorities and to visit Sudan.

8. RSF sent correspondence to the President of the Human Rights Council, through OHCHR, on 20 December 2023, offering full cooperation with the Fact-Finding Mission. RSF followed up on this letter in July 2024, following which there was some communication at the Secretariat level.

9. The Fact-Finding Mission expresses its readiness to engage with all parties to the conflict, in accordance with its mandate.

10. The Fact-Finding Mission also reached out to neighboring countries: Central African Republic, Chad, Egypt, Ethiopia, Kenya, South Sudan, and Uganda, requesting their cooperation and access to their territories to gather first-hand information from Sudanese victims of the conflict. The Fact-Finding Mission visited Kenya twice – in May and August, Chad in July, and Uganda in August 2024. The Fact-Finding Mission is grateful to the governments of Chad, Kenya, and Uganda for their cooperation.

B. Investigations and verification of information

11. The Fact-Finding Mission issued a call for submissions and received substantial information from individuals and organizations. It also examined information contained in reports from various sources, including United Nations entities, regional and international bodies and non-governmental organizations. It has held extensive consultations with Sudanese civil society organizations, human rights defenders, subject-matter experts, and other stakeholders.

12. The Fact-Finding Mission obtained first-hand information through interviews with victims, their families, eyewitnesses, first-line responders and other sources, including during its visits to Chad, Kenya, and Uganda. As of 31 July 2024, the Fact-Finding Mission had conducted interviews with 182 individuals (67 women and 115 men).

13. The Fact-Finding Mission expresses its gratitude to witnesses who shared their accounts, and the individuals and organizations, it engaged with. In discharging its mandate, the Fact-Finding Mission adhered to the principles of independence, impartiality, objectivity, transparency, integrity, protection of sources, and ‘do no harm’. It applied the “reasonable grounds to believe” standard of proof. It has made findings of fact and law only where it was able to obtain sufficient reliable and corroborated information, based on which a reasonable and ordinarily prudent person would have reason to believe that such an incident or pattern of conduct occurred as described. The phrase ‘the Fact-Finding Mission ‘finds’ in this report is reflective of this standard being met.

III. Applicable Law

14. The Fact-Finding Mission has applied international human rights law, international humanitarian law, as well as international criminal law, and considered additional commitments undertaken by the parties to the conflict. It has also considered Sudan’s domestic laws as relevant.

15. Sudan is a party to seven of the nine core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Convention for the Protection of All Persons from Enforced Disappearance (CED), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the Convention on the Rights of the Child (CRC) and its Optional Protocol on the involvement of children in armed conflict (CRC-OP-AC). At the regional level, it is a party to the African Charter on Human and People’s Rights (ACHPR) and the African Charter on the Rights and Welfare of the Child (ACRWC). Sudan has not acceded to the Convention on the Elimination of All Forms of Discrimination against Women. Also, it has signed but not ratified the Maputo

Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.

16. Sudan is a state party to the four Geneva Conventions of 1949 as well as their two Additional Protocols of 1977. Rules of customary international law are also applicable and binding on all parties to the conflict.

17. Sudan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide. Sudan has signed but not ratified the Rome Statute of the International Criminal Court. However, the situation in Darfur has been brought within the jurisdiction of the Court since 1 July 2002, through United Nations Security Council Resolution 1593 (2005).

18. The United Nations Security Council imposed an arms embargo on Darfur.³ Following the outbreak of hostilities, the Security Council, by Resolution 2724 (2024), called on all parties to the conflict to immediately cease hostilities and to comply with their obligations under international humanitarian law and their commitments under the Jeddah Declaration. In its Resolution 2736 (2024), the Security Council demanded among others that RSF halt its siege of El-Fasher and that all parties to the conflict ensure the protection of civilians.

IV. The Present Conflict

19. In mid-April 2023, hostilities broke out between SAF and RSF, and their respective allied militias, in Khartoum and quickly spread to other parts of Sudan. Tensions preceded the current conflict and had been rising since the removal of former President Omar Al-Bashir in 2019, following which Lieutenant-General Abdel Fattah Al Burhan took charge of the military-established Transitional Sovereignty Council with Lieutenant-General Mohamed Hamdan Dagalo, also known as Hemedti, as his deputy. Despite the adoption of a transitional constitution, under which the country would be governed by a civilian-military coalition for a transitional period of 39 months, the transition to civilian rule faltered as SAF and RSF jointly ousted the civilian leaders on 25 October 2021 and asserted military rule.

20. At the time of this report, the conflict has spread to a majority of States in Sudan, with a devastating impact on the civilian population across the country. Multiple initiatives have been pursued to end the conflict in Sudan. On 16 April 2023, the African Union Peace and Security Council called for an immediate ceasefire; the protection of civilians; and provision of humanitarian support to civilians.⁴ On 27 April 2023, the African Union Roadmap for the Resolution of the Conflict in Sudan was adopted, and included a call for a comprehensive cessation of hostilities.⁵ A separate political process was initiated by the IGAD, resulting in the adoption of a Roadmap on 12 June 2023.

21. The United States and Saudi Arabia co-facilitated talks between SAF and RSF in early May 2023 in Jeddah, Saudi Arabia, resulting in the signing of the Jeddah Declaration of Commitment to Protect the Civilians of Sudan. Under this agreement, the parties committed to protect civilians; respect international humanitarian law and international human rights law; allow humanitarian operations to resume, protect humanitarian personnel and assets, ensure that their respective forces abide by international humanitarian law and schedule expanded discussions to achieve a permanent cessation of hostilities. These commitments remain largely unimplemented. Another round of talks took place in Manama, Bahrain, in January 2024, and in Geneva, Switzerland, in August 2024 leading to an agreement to open the border for humanitarian aid in Adré, Chad.⁶

22. On 21 November 2023, the United Nations Secretary-General appointed a Personal Envoy for Sudan. In July 2024, the Personal Envoy held proximity talks with representatives

³ S/RES/1556 (2004), S/RES/1591 (2005), S/RES/1945 (2010), S/RES/2676 (2023).

⁴ PSC/PR/COMM.1149 (2023).

⁵ PSC/HoSG/COMM.1156 (2023).

⁶ <https://www.unocha.org/publications/report/sudan/sudan-adre-border-crossing-situation-update-flash-update-no-01-27-august-2024#:~:text=The%20re%2Dopening%20of%20the%20Adre%20border%20crossing%20announced,to%20areas%20in%20acute%20need.>

of the parties to the conflict on measures to ensure the distribution of humanitarian assistance and the protection of civilians across Sudan.

Key actors to the conflict

23. The Fact-Finding Mission considers that the situation in Sudan amounts to a non-international armed conflict to which Common Article 3 to the Geneva Conventions of 1949 and its Additional Protocol II of 1977 relating to the Protection of Victims of Non-International Armed Conflict apply. The two main parties to the armed conflict are SAF and RSF. Both sides rely on regular armed and paramilitary forces, auxiliary militias, allied militias, intelligence and security agencies.

Sudanese Armed Forces Alliance

24. The SAF alliance is led and controlled by SAF Commander-in-Chief, Lieutenant General Abdel Fattah Al Burhan. General Al Burhan sets the political and military strategy, and his most senior military officers control the Transitional Sovereignty Council, SAF, national ministries and state governments. In addition to the General Intelligence Service, SAF has its own Military Intelligence that reports directly to General Al Burhan.

25. During the current conflict, SAF heavily relied on its Air Force, and sought to strengthen its ground forces, which prior to the conflict included RSF, through a massive mobilization drive. The SAF leadership established a Popular Resistance National Committee to coordinate the recruiting, arming and financing of new militias. In a parallel mobilization track, new recruits, known as “the mobilized” (*mustanfareen*), are enlisted into SAF and deployed to reinforce depleted SAF divisions.

26. Several armed groups originating from Darfur, including the Justice Equality Movement (JEM), the Sudan Liberation Movement/Army factions of Minni Minnawi (SLM/Minnawi), Mustafa Tambour (SLM/Tambour), and the late Khamis Abakar (SLM/Sudanese Alliance), the Sudan People’s Liberation Movement-North under Malik Agar (SPLM-N/Agar) and some groups from eastern Sudan have aligned their forces with SAF. JEM, SLM/Minnawi and other Darfuri armed groups have formed a Joint Force that fights in coordination with SAF against RSF, particularly in North Darfur and its capital El-Fasher.

Rapid Support Forces Alliance

27. RSF is led by First Commander Lieutenant-General Mohamed Hamdan Dagalo. His older brother, Lieutenant-General Abdelrahim Hamdan Dagalo, is the second in command. RSF has operated as a highly mobile ground fighting force that combines regular RSF units, its own intelligence service and newly recruited RSF-aligned militias into an alliance under the overall control of Lieutenant-General Mohamed Hamdan Dagalo.

28. RSF traces its roots to the early 2000s, when the Government of Sudan armed civilians to counter an insurgency in Darfur. Arab nomadic tribes without a traditional homeland and wishing to settle, given the encroaching desertification, responded to the call and the Government organized them into militias that became known as “*Janjaweed*.”⁷ In 2005, the *Janjaweed* were found to have committed, in concert with the Government, serious violations of human rights and international humanitarian law..⁸

29. From 2013, facing a renewed insurgency, the Government re-organized some of the *Janjaweed* into what became known as RSF. Lieutenant-General Mohamed Hamdan Dagalo was appointed as its commander of operations. RSF was formally recognized under the Rapid Support Forces Act of 2017. Up to the current conflict, the Sudanese Government provided RSF with extensive resources and support. RSF increased its political influence and military capacity through deployments in Darfur, other parts of Sudan and Yemen.

⁷ S /2005/60, para. 69.

⁸ Ibid, paras. 248-413.

30. From the beginning of the conflict, RSF senior leaders, directly and through intermediaries, recruited fighters from neighbouring states, and Sudan's periphery in exchange for money, weapons and other incentives, including the prospect of loot.

Other Armed Groups

31. A number of armed groups assert non-alignment with either side. These include the factions of the Sudan Liberation Movement of Abdul Wahid Mohammed al-Nur (SLM/Al-Nur) and El Hadi Idriss (SLM/Transitional Council) in Darfur and the faction of the Sudan People's Liberation Movement-North of Abdelaziz al-Hilu (SPLM-N/Al-Hilu), which controls parts of South Kordofan State and Blue Nile State.

V. Root causes

32. The conflict between SAF and RSF is often described as a dispute over power between General Al Burhan and General Mohamed Hamdan Dagalo. There are however deeper roots and complex factors that can be attributed to the lack of inclusive and democratic government; vast inequalities, centralization of power and resources, and marginalization of various communities; and rampant impunity.

33. Since its independence, Sudan has been fragmented and stuck in a cycle of violence, which is structural and recurring even during times of peace. It experienced extensive periods of armed conflicts and political strife. More than 46 peace agreements have been signed. One key weakness common to all past peace processes has been the focus on ending the conflict without addressing the root causes or enforcing accountability for mass atrocities. This has persisted, despite recommendations by various initiatives, including the United Nations International Commission of Inquiry on Darfur,⁹ (2005 Darfur COI), and the African Union High-Level Panel on Darfur (AUPD).¹⁰ While the recommendation of the 2005 Darfur COI for the referral of the situation to the International Criminal Court was implemented, the other proposed measures to end impunity were not. The recommendations of the AUPD to address the root causes and accountability were also not implemented.

34. Many of those who took up arms in prior conflicts came from the poorest communities. Their poverty was caused, in part, by neglect from the centre, underdevelopment, discrimination and ecological and demographic changes. Ongoing conflicts have led to massive displacement across Sudan, exacerbating the situation.

35. Moreover, since independence, Sudan has struggled with internal political instability, leading to several military takeovers, restrictive military rule, and exclusion of the civilian population from participation in political processes. This situation was aggravated under former President Omar Al-Bashir's 30-year rule and did not fundamentally change after his ousting in April 2019. The succeeding period saw little improvement in terms of civilian participation in political processes, despite the December 2018 civilian uprising and planned transition to a democratic civilian rule. The civilian movement, organized through Resistance Committees, which had evolved since the 2019 revolution, was perceived as a threat by the military who applied repressive methods to suppress it.¹¹

36. The community leaders and civil society representatives that the Fact-Finding Mission spoke to stressed that political and ideological manipulation, recurring violence without accountability, and the policy of divide and rule, particularly during the Al-Bashir era, has intensified differences among various groups. They stressed the need for an inclusive dialogue to enable a deeper understanding of grievances and chart the way forward based on equality and justice for all citizens of Sudan.

⁹ S/RES/1564 (2004).

¹⁰ <https://archives.au.int/handle/123456789/2358>.

¹¹ See e.g., A/HRC/50/22.

VI. Violations of human rights and international humanitarian law

37. Since the outbreak of the conflict in mid-April 2023, the violence has led to an estimated over 18,800 persons killed and 33,000 injured.¹² A substantial number of those are civilians, who have been impacted by airstrikes, heavy artillery shelling, and ground attacks on their homes and villages. The use of explosives with wide area effects in densely populated areas, particularly in Khartoum and Darfur, has resulted in deaths, injuries, extensive destruction of homes, hospitals, schools and other critical infrastructure, exacerbating the humanitarian crisis. By August 2024, 10.7 million persons were internally displaced, which includes an estimated 7.9 million persons who fled their homes since the start of the conflict, and another 2.8 million persons who were displaced in earlier conflicts.¹³ More than 2.1 million persons, including returnees, fled to neighbouring countries.¹⁴

a. Conduct of Hostilities

(i). *Airstrikes and Bombardments affecting civilians*

38. On 15 April 2023, heavy gunfire and explosions shook Khartoum, generating panic in the city and beyond. The exchange of fire between SAF and RSF led to constant airstrikes and artillery shelling across the tri-city area of Khartoum, Omdurman and Bahri (Greater Khartoum). Shelling took place across civilian areas and the conflict spread beyond military bases to residential neighbourhoods causing civilian deaths and injuries and large-scale destruction, including of critical bridges.

39. From mid-April 2023 onwards, frequent shelling and airstrikes in Greater Khartoum continued, affecting various neighbourhoods. For example, on 22 April 2023, bombs were dropped at rapid intervals in al-Diyum neighbourhood in Khartoum, resulting in civilian deaths. Several areas of Greater Khartoum appear to have been flattened. The neighbourhoods of Al-Salama al-Qadema, Salma al-Kababesh, al-Azhari, al-Inkaz, and al-Nahda were subjected to frequent airstrikes. Between April and June 2023, the al-Remila neighbourhood in Khartoum suffered shelling from both SAF and RSF. The civilian death toll continued to rise.

40. The conflict immediately spread to Darfur, widely affecting its towns. In May and June 2023, there was intense artillery shelling of various neighbourhoods in El-Geneina, West Darfur. Mortars fell on civilian houses, medical clinics, internally displaced persons (IDP) sites, and schools. The shelling reportedly came from the west and south of El-Geneina, areas under the control of RSF.

41. In Nyala, South Darfur, from April 2023, RSF and its allied militias were engaged in intense armed confrontations with the SAF. SAF and RSF constantly shelled the area affecting civilian neighbourhoods. The Taiba bridge in Nyala was shelled in August 2023, causing death and injury to dozens of civilians who were seeking shelter near the bridge. The fighting persisted until 26 October 2023, when RSF captured the SAF base in Nyala.

42. In Zalingei, Central Darfur, armed confrontations ensued between SAF and RSF and their allied militias, from 15 April until 31 October 2023, when RSF captured the SAF base. During that period, SAF and RSF exchanged shelling across civilian neighbourhoods, resulting in civilian deaths, injuries and displacement, including in the Stadium, Imtidat, Salam, and Zariba neighbourhoods on 13 and 14 May 2023.

43. In South Kordofan, on 14 March 2024, SAF reportedly bombed Hadra elementary school, killing 11 children and two teachers, and injuring 46 pupils. RSF allegedly shelled a religious school known as Al-Khalwa Al-Tijaniyah in El-Fasher, killing at least 34 persons, mostly children.

¹² See e.g. OCHA, 1 Sept 2024, <https://reports.unocha.org/en/country/sudan/>.

¹³ <https://dtm.iom.int/sudan>.

¹⁴ <https://data.unhcr.org/en/situations/sudansituation>.

44. The Fact-Finding Mission finds, based on the body of evidence gathered, that both SAF and RSF failed to take sufficient measures to minimize the impact of airstrikes or artillery shelling on civilians. It notes that international humanitarian law requires that all parties to the conflict strictly abide by the principles of distinction, proportionality and precaution. Attacks are considered indiscriminate when they fail to distinguish between military objectives and civilians or civilian objectives, because they are not or cannot be directed at a specific military objective, or their effects cannot be limited. Practices inconsistent with international humanitarian law, including indiscriminate attacks posing risk to the lives of civilians, also violate international human rights law.

(ii). *Pillage and destruction of civilian objects and infrastructure*

45. The Fact-Finding Mission established that civilian infrastructure and objects, including objects indispensable to the survival of the civilian population, were attacked, damaged or destroyed both by SAF and RSF. Water, communication networks and electricity supply lines were destroyed in Khartoum, Darfur and other locations, leaving civilians in dire conditions. Large-scale destruction of residential homes through airstrikes and shelling left thousands of civilians without shelter, forcing many to flee and seek refuge in other locations.

46. Medical facilities in various locations affected by the conflict were also subjected to attacks, causing severe disruptions to the health care system. Several hospitals, including Al Shuhada hospital in Khartoum, were looted by RSF, their staff and patients assaulted or even killed during the attack.

47. The Fact-Finding Mission has documented widespread pillage, predominantly by RSF and allied militias. They were sometimes followed by civilians, bandits, and groups of looters including "Kassiba".¹⁵ Multiple incidents of pillage and looting, in numerous instances accompanied by killings and other violence against civilians, were reported in and around Khartoum, Gezira, and Darfur, particularly in and near the towns of El-Geneina, Ardamata, Nyala, El-Fasher and Zalingei. Those who were displaced from their homes in Khartoum, Darfur, Gezira or other areas reported that they lost all, or nearly all, their belongings to RSF and/or their allied militias, including houses, which were subsequently occupied by them. In Darfur, the pillage, looting and destruction of property affected entire livelihoods and civilian structure, including shelter, food and water, the health system, water-stations, public offices and facilities, of non-Arab communities, in particular the Masalit.

48. Based on the foregoing, the Fact-Finding Mission finds that RSF and allied militias, at times with the involvement of civilians or Kassiba, engaged in a pattern of pillage and destruction of objects indispensable to the survival of the civilian population, including through intentionally directing attacks against specially protected objects, in violation of international humanitarian law. Under international human rights law, it finds that these acts violate the economic, social and cultural rights of the civilian population, in particular their rights to physical and mental health and to food, water and housing.

b. Ethnic-based attacks in El-Geneina

49. In some parts of the country, the violence had an ethnic undertone. This is particularly manifest in the attacks carried out against the non-Arab Masalit community in West Darfur.

50. In El-Geneina, the capital of West Darfur, the current conflict further stretched pre-existing tribal tensions, and was fought mainly along ethnic lines, pitting RSF and its allied militias against SAF and Masalit ethnic groups. Between April and November 2023, RSF and allied militias clashed with SAF and their allies, including the SLM/Sudanese Alliance led at the time by Governor of West Darfur, Khamis Abakar, and other Masalit groups, over control of El-Geneina.

51. El-Geneina was an ethnically diverse city with a population of around 540,000 inhabitants. Following the outbreak of the conflict, on 24 April 2023, RSF and their allied

¹⁵ "Kassiba" or "Kasaba" is an Arabic colloquial term in Sudan, which literally translates as profiteers. It is commonly used to refer to groups of outlaws engaged in robbery and looting of houses during time of war.

militias attacked a SAF convoy in al-Jamarek neighborhood. RSF and its allied militias encircled al-Jamarek, al-Thawra, al-Tadamon and al-Madares neighborhoods, subjecting them to intense mortar shelling and sniper fire, causing a large number of casualties. As the SAF retreated to their base in Ardamata with some of its elements taking shelter in some of the civilian neighborhoods, RSF and allied militias began a campaign of violence targeting the Masalit community in El-Geneina, resulting in large-scale atrocities, including thousands of killings,¹⁶ torture, rape and other forms of sexual violence, pillage and destruction of property. During these attacks, SAF failed to protect the civilian population.

52. Masalit men were systematically targeted for killing. RSF and its allied militias went door to door in Masalit neighborhoods, looking for men and brutally attacking and killing them, sometimes in front of their families. Lawyers, doctors, human rights defenders, academics, community and religious leaders were apparently specifically targeted. RSF commanders reportedly issued orders to “comb the city” and place checkpoints throughout.

53. The height of the assault on El-Geneina occurred on 14 and 15 June 2023, following the capture and subsequent killing of the Governor of West Darfur, Khamis Abakar, a Masalit. During the night of 14 June, tens of thousands of individuals, majority of them Masalit civilians, attempted to flee from al-Jamarek and al-Madares neighborhoods and seek refuge in Ardamata. At dawn on 15 June, as the miles-long convoy of people passed through the El-Geneina neighborhoods of al-Shatii and al-Naseem, it was ambushed by RSF and its allied militias. The attackers fired at the convoy from their vehicles, killing and injuring thousands of individuals, leaving many dead bodies on the streets of El-Geneina and on the road to Chad, including of women and children. RSF and its allied militias also pillaged, burned down or otherwise destroyed and shelled Masalit neighborhoods in El-Geneina. Interviewees described RSF and allied militias using racial slurs against Masalits and other non-Arab groups, describing them as “umbay/slave” “komrod/Masalit fighter”, “nuba/black”, accompanied by threats and claims that the land belonged to Arabs. Several Masalit detainees at the RSF base in al-Jamarek and other locations endured severe beatings and torture.

54. Women were assaulted, raped and robbed of their belongings because of their ethnicity. The attackers used derogative terms about the Masalit in the context of rape and other forms of sexual violence. A survivor from El-Geneina was told: “We will make you, the Masalit girls, give birth to Arab children” after being raped inside her house at gunpoint. Several women reported that they were explicitly told by RSF and their allied militias to leave for Chad and not to return or else they would be harmed.

55. This widespread violence and destruction triggered hundreds of thousands of persons to flee.¹⁷ RSF and its allied militias continued to pursue and attack fleeing civilians along the escape routes to Chad. Individuals were asked to declare their ethnicity at checkpoints manned by RSF and its allied militias.

56. Based on the foregoing, the Fact-Finding Mission finds that RSF and its allied militias committed coordinated and large-scale attacks on the civilian population, mainly the Masalit community in El-Geneina, West Darfur, and other areas under their control along flight routes of civilians. The above-described acts of killings, torture and other forms of cruel, inhuman or degrading treatment or punishment, including rape and other forms of sexual violence, as well as looting, pillage and destruction of objects indispensable to the survival of the civilian population, formed part of large-scale attacks which targeted, in particular, the Masalit community, on the basis of their ethnicity. The Fact-Finding Mission finds that these acts amount to violations of international humanitarian law to life and person, in particular murder of all kinds, cruel treatment and torture, and outrages upon personal dignity, in particular humiliating and degrading treatment and rape and any form of indecent assault, and threats to commit the foregoing acts. They also constitute human rights violations, in particular of the rights to life and non-discrimination, and the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment, including rape and other forms of sexual violence. The Fact-Finding Mission further finds that RSF and its allied militias violated the international humanitarian law prohibitions of acts and threats of violence

¹⁶ S/2024/65, para. 54.

¹⁷ Ibid, p.17.

primarily intended to spread terror among the civilian population, making the civilian population the object of attack, destroying objects indispensable to the survival of the civilian population, and forcible displacement.

c. Sexual and Gender-Based violence

57. The Fact-Finding Mission found that sexual and gender-based violence, in particular rape and gang rape, is widespread in the context of the conflict and continues to occur on a large scale across Sudan. While women and girls of reproductive age were overwhelmingly targeted by these acts, first-hand sources informed the Fact-Finding Mission of rape of girls as young as eight years old and women as old as 75 years old. Based on testimonies, vaginal single and multiple-perpetrator rape has been the most documented type of sexual violence. Other acts of rape and sexual violence, such as anal rape or rape with body parts, notably fingers, also occurred. Men and boys were not spared, although the number of reported cases is substantially lower.

58. Rape and other forms of sexual violence documented by the Fact-Finding Mission were largely attributed to men wearing RSF uniforms and, in the context of Darfur, armed men allied to RSF, who victims referred to as *Janjaweed*, wearing traditional attire and a shawl around their head,¹⁸ masking most of their facial features.

59. The Fact-Finding Mission found that sexual violence was perpetrated on a large scale by RSF in the context of attacks of cities in the Darfur region and the Greater Khartoum area. There are numerous victims and witnesses of rape and other forms of sexual violence that occurred during attacks on El-Geneina from mid-April to mid-June 2023, and Ardamata, in November 2023. Victims recounted being attacked in their homes, beaten, lashed and threatened with death or harm to their relatives or children, before being raped often by more than one perpetrator. They were also subjected to sexual violence while seeking shelter from attacks or fleeing.

60. Witnesses from Greater Khartoum and other areas in Darfur, particularly Nyala, and Zalingei, confirmed that similar patterns of widespread rape and gang rape were perpetrated by RSF members and their allies during attacks on cities and sites for internally displaced persons. In some conflict areas, perpetrators of sexual violence used racist slurs, in particular referring to non-Arab ethnicity, associated with pejorative attributes,¹⁹ indicating that ethnicity was a basis for discrimination, often entailing more violent assaults. Women human rights defenders, journalists and medical personnel were also targeted with sexual violence, seemingly in reprisal for their activities.

61. Women and girls were also abducted by RSF for the purpose of sexual violence and/or sexual exploitation in Darfur and Greater Khartoum. Some victims were abducted and transported to remote locations where they were raped. Witnesses also described that women and girls were abducted on board of pickup vehicles and taken to unknown destinations. Some victims described that they were abducted and forcibly held and confined in a house or a room for a duration ranging from several days to several months, during which they were deprived of their liberty and subjected to repeated rape and/or sexual exploitation by different RSF members and threatened with violence or death in case they tried to leave or resist sexual violence.

62. Based on the foregoing, the Fact-Finding Mission finds that the large-scale rape and other forms of sexual violence committed primarily by RSF and its allied militias amount to violations of international humanitarian law of violence to life and person, and outrages upon personal dignity, in particular humiliating, degrading and cruel treatment and torture, and rape and any form of indecent assault, and threats to commit the foregoing acts. It further finds that the abduction, confinement and detention of women and girls for sexual purposes, including rape and sexual exploitation, by RSF constituted conditions whereby they exercised powers attaching to the right of ownership over the victims, whose liberty they also deprived, amounting to prohibited acts of sexual slavery. Under international human rights law, these acts constitute violations of the rights to be free from torture and other cruel,

¹⁸ *Kadamol* (كدمول).

¹⁹ *Nuba* (نوبة), *umbay* (slave) (أمباي).

inhuman degrading treatment or punishment, including rape and sexual violence, to physical and mental health, including reproductive rights, and to non-discrimination based on gender grounds.

63. The Fact-Finding Mission also documented several cases of sexual violence, including rape and rape threats, attributed to SAF and its Military Intelligence. The Fact-Finding Mission further received information concerning allegations of sexual exploitation of women and girls by SAF in exchange for food in areas under their control. Further investigations are necessary to determine the extent and patterns of sexual violence perpetrated by SAF in the context of the current conflict.

d. Grave violations against children

64. Children are paying a very heavy toll in the conflict. They have been recruited and used in hostilities, killed, injured, abducted and forcibly displaced, detained with adults, tortured, subjected to sexual violence and deprived of healthcare and education. The most recent Secretary-General annual report on children and armed conflict lists SAF and RSF among the parties that have committed grave violations against children. Both parties have been newly listed for the killing and maiming of children and for attacks on schools and hospitals, while RSF has also been listed for the recruitment and use of children and for the rape and other forms of sexual violence against children.²⁰ The investigations of the Fact-Finding Mission confirm these findings. It also received multiple credible reports that SAF has played a role in the training and arming of children who have joined the popular mobilization.

(i). Child recruitment or use of children in hostilities

65. Despite undertakings by the Government of Sudan to maintain the minimum age for voluntary service at 18 and to prohibit forced or voluntary conscription of any person below that age, there is credible information that children younger than 18 have been associated with regular SAF troops, notably in Darfur. Of particular concern is that the SAF leadership has been pursuing alliances with armed groups that have been listed in the report of the Secretary-General for the recruitment and use of children in hostilities, including the SLM/Minnawi and the JEM.

66. RSF and its allied militias systematically recruited and used children in hostilities. Witnesses reported that young boys have been seen with RSF and allied militias in El-Geneina, Ardamata and other localities along the border with Chad, as well as Zalingei, Nyala, Wad Madani, and Khartoum. Reports also indicate that children have been fighting alongside RSF in El-Fasher.

67. RSF and allied its militias have used children as bodyguards, informers, in combat units, to conduct security patrols, man checkpoints, carry out searches, monitor arrestees, pillage, commit arsons, as well as commit acts of torture in detention centres. Eyewitnesses reported that some children were dressed in RSF uniforms, with some bearing ranks.

(ii). Killing and injuring of children

68. Death, maiming and serious injuries of children as a result of airstrikes and shelling that hit residential areas, including in Khartoum and parts of Darfur, has been documented. Numerous eyewitness accounts reported the death of children during airstrikes that hit civilian objects such as markets or schools, and densely populated areas. For example, the aerial bombardment of Hadra elementary school in South Kordofan, on 14 March 2024, reportedly by the SAF, killed 11 and injured 46 children.

69. In Darfur, dead bodies were seen lying in the streets, including of children with gunshots, during the attack on El-Geneina by RSF and allied militias mentioned above. Children were killed by snipers while walking on the streets; inside their houses; or when RSF and allied militias shelled houses, schools or hospitals in El-Geneina, Ardamata and Zalingei.

²⁰ See A/78/842-S/2024/384, 3 June 2024.

70. Based on the foregoing and in connection with other relevant sections of this report, the Fact-Finding Mission finds that RSF and affiliated militias recruited and used children in hostilities and committed acts of killing and maiming, abduction, and rape or other sexual violence against children, attacks on schools and hospitals, and deprivation of essential humanitarian assistance for children. It finds that SAF committed acts of killing and maiming of children, attacks on schools, and deprivation of essential humanitarian assistance for children. These acts constitute violations of international humanitarian law and international human rights law, in particular under the CRC and CRC-OP-AC, and echo the six grave violations against children in times of conflict.²¹

e. Arbitrary arrests and detention

71. The Fact-Finding Mission has documented widespread arrests and detention conducted by both SAF and RSF since mid-April 2023 in areas under their control. Civilians were arrested mainly on suspicion of supporting the other side of the conflict. Documented arrests and detentions took place in various locations of Khartoum, West and Central Darfur, as well as River Nile state. Use of unofficial locations by both SAF and RSF have been reported, including a factory, the Sport City in Khartoum, schools, and ordinary residential buildings were used as detention centres by RSF, in particular in Khartoum and Blue Nile State.

72. Civilians were arrested in different locations, including at checkpoints and from their homes, often accompanied by acts of physical violence. Harsh detention conditions were reported. Victims said that they were detained in extremely congested facilities, in inhumane conditions without access to adequate food, water and sanitation facilities. Medical facilities appear to have been totally lacking. Arrests were conducted without a warrant or any other type of legal documentation and access to legal assistance and family visits were denied.

73. Former detainees told the Fact-Finding Mission that they were held together with hundreds of other detainees. A man who was detained at a SAF detention centre in December 2023, estimated the number of detainees of around 400. Another former detainee indicated he was detained alongside more than 600 other persons at an RSF detention facility in November 2023. Boys under the age of 18 were arrested and held in both SAF and RSF detention facilities together with adult male detainees in Khartoum and Darfur. Numerous cases of death in detention in both SAF and RSF facilities have also been documented.

74. Based on the above, the Fact-Finding Mission finds that both RSF and SAF arbitrarily arrested and detained civilians, including children, in violation of fundamental guarantees under international humanitarian law and international human rights law. Individuals, including children, were not informed of the reasons for their arrest, or any charges brought against them, and often held in unofficial detention locations in inhumane conditions and without access to legal assistance or judicial oversight in violation of the ICCPR and CRC.

f. Torture and other cruel, inhuman or degrading treatment or punishment

75. Acts amounting to torture and other forms of ill-treatment were carried out by SAF, including its Military Intelligence, and by RSF and their allied militias.

76. The most common methods of torture identified by the Fact-Finding Mission as used by SAF included pouring cold water on the victim; lashing; beating the victim on various parts of the body or, in some cases, on the entire body with iron cables, whip, rifles and weapons; causing sometimes deep cuts and bleeding, pulling out or damaging the victim's finger or toe nails.

77. The most common methods of torture identified as used by RSF included lashing and beating the victim on various parts of the body or, in some cases, on the entire body with iron cables, whip, rifles and weapons. For example, one victim said that RSF took her from a house in El-Geneina, blindfolded and transferred her to another location where they beat her with a whip for what seemed like a long time, severely injuring her.

²¹ S/RES/1612 (2005).

78. Boys under the age of 18 were also subjected to acts of torture or ill-treatment and sometimes sexual violence in detention. RSF also appears to have used teenage boys as guards in detention facilities to torture other detainees, notably in Al Nakheel Police Station in Omdurman.

79. Based on the foregoing, the Fact-Finding Mission finds that both SAF and RSF intentionally inflicted severe physical and mental pain or suffering on their victims, including children, with the purpose of intimidating, coercing or obtaining a confession from them or as a form of punishment or on a discriminatory basis. These acts amount to violations of international humanitarian law of violence to life and person, in particular cruel treatment and torture, and outrages upon personal dignity, in particular humiliating and degrading treatment. They also amount to violations of international human rights law, in particular under the CAT and CRC.

g. Suppression of free speech, information and media

80. Following the eruption of the conflict, key media outlets and telecommunications services were suspended or shut down. RSF seized critical communication infrastructure, resulting in major network disruptions. As a result, civilians were unable to access essential services. The internet shutdown by SAF and RSF also hampered the work of frontline humanitarian aid providers, including persons working in the Emergency Response Rooms,²² preventing them from coordinating and obtaining food, medicine, and other essential items for those in need.

81. In addition, both RSF and SAF, and their intelligence agencies, systematically exercised censorship, suppressed media freedom by arresting, threatening, intimidating, harassing, and attacking journalists and media professionals. In one case, female journalist was repeatedly threatened by RSF after being linked to media coverage of human rights violations by RSF. RSF first warned the witness's brother that continuing to write would "lead to trouble." Two RSF members then made death threats against the journalist and subsequently opened fire on her family home. The journalist, along with her mother and sister, was forced to go into hiding. In another case, in June 2024, SAF military intelligence arrested, assaulted and threatened a freelance journalist in El-Fasher. He said he was held in a small cell, kicked and beaten until he lost consciousness.

82. The Fact-Finding Mission has also documented multiple incidents of threats, intimidation, harassment, attacks and reprisals against individuals involved in documenting human rights violations, including human rights defenders, lawyers, Emergency Response Room and Resistance Committee members, and other members of civil society, by both SAF and RSF.

83. Based on the foregoing, the Fact-Finding Mission finds that both RSF and SAF imposed broad internet shutdowns by cutting access to information and communication through internet and media services and curtailing free speech of journalists and the media incompatible with the right to freedom of opinion and expression under the ICCPR and ACHPR.

h. Humanitarian Situation

84. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), close to 16 million persons were in need of lifesaving assistance due to prolonged internal conflicts and instabilities, and economic crises before the conflict broke out.²³ By August 2024, more than half of the Sudanese population - 26.5 million – was experiencing acute hunger. Among them, more than 8.5 million persons are facing emergency levels of hunger and more than 755,000 were in catastrophic conditions in Darfur states, South and North Kordofan, Blue Nile, Gezira, and Khartoum.²⁴

²² Virtual rooms created by the civilian movement to coordinate support by receiving requests for help from the public via WhatsApp groups and other social media platforms.

²³ OCHA, 1 Sept 2024, <https://reports.unocha.org/en/country/sudan/>.

²⁴ OCHA, 1 Sept 2024, <https://reports.unocha.org/en/country/sudan/>.

85. While the conflict forced Sudan's health system to the verge of collapse, people are facing a lethal combination of displacement, shortage of potable water, hunger and disease. In July 2024, the Famine Review Committee (FRC) of the Integrated Food Security Phase Classification (IPC) determined that famine conditions (IPC 5) are prevalent in one of the IDP camps. This means "at least one in five (or 20 per cent) people or households have an extreme lack of food and face starvation and destitution, resulting in extremely critical levels of acute malnutrition and death."²⁵

86. Access restrictions, including administrative impediments, and insecurity for humanitarian aid and humanitarian workers have further aggravated the humanitarian crisis. Humanitarian organizations operating in Sudan indicated that they are facing multiple challenges. These include arbitrary denial of or delays to process visa applications for humanitarian workers, restrictions on border crossing options for humanitarian aid, delays to issue of travel permits for humanitarian workers and to authorize domestic humanitarian movement.²⁶ According to OCHA, "*the planned movement of over 125 trucks to hard-to-reach areas have been pending approval for over 90 days*" since the beginning of March 2024 affecting delivery of humanitarian aid in South, Central, North and East Darfur, and Khartoum states.²⁷

87. SAF, including through its intelligence services, has hampered the transport of humanitarian aid through border-crossing that facilitates access to communities in need of aid, especially access to locations controlled by RSF, and RSF is similarly preventing access to areas under the control of SAF. From February to August 2024, SAF blocked the passage of humanitarian assistance from Chad through the Adré border crossing based on perceived benefit to RSF, while RSF blocked the delivery of medical supplies to El-Fasher city on the basis that it would benefit SAF. The Sudanese authorities re-opened the Adré border crossing from 15 August 2024, as talks led by the United States of America continued in Geneva.²⁸

88. While it welcomes the re-opening of the Adré border crossing, the Fact-Finding Mission finds that despite the call by the United Nations Security Council on the parties to the conflict to allow and facilitate the rapid, safe, unhindered and sustained passage of humanitarian relief for civilians in need,²⁹ both SAF and RSF have engaged in actions contrary to their obligations under international humanitarian law regarding unimpeded and rapid passage of humanitarian relief for civilians in need.

VII. International crimes and their perpetrators

89. The Fact-Finding Mission has examined the above findings in accordance with its standard of proof under international human rights law and international humanitarian law through the lens of international criminal law, which provides for individual criminal responsibility for the core international crimes..

War crimes

90. The Fact-Finding Mission finds that the above-described violations took place in the context of, and with a nexus to the non-international armed conflict in Sudan since mid-April 2023. On this basis, it finds reasonable grounds to believe that many of the established violations of international humanitarian law constitute war crimes.

91. The Fact-Finding Mission finds reasonable grounds to believe that RSF and affiliated militias committed the war crimes of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; committing outrages upon personal dignity, in

²⁵ <https://reliefweb.int/report/sudan/famine-sudan-ipc-famine-review-committee-confirms-famine-conditions-parts-north-darfur>.

²⁶ <https://reliefweb.int/report/sudan/sudan-humanitarian-access-snapshot-july-2024>.

²⁷ OCHA, 1 Sept 2024, <https://reports.unocha.org/en/country/sudan/>.

²⁸ Delegations include the United Nations, African Union, Egypt, Saudi Arabia, the United Arab Emirates, and Switzerland. <https://reliefweb.int/report/sudan/sudan-adre-border-crossing-situation-update-flash-update-no-01-27-august-2024-enar>.

²⁹ S/RES/2724 (2024) and S/RES/2736 (2024).

particular humiliating and degrading treatment; rape, sexual slavery and any form of indecent assault; pillage of towns or places; conscripting or enlisting children under the age of 15 or using them to participate actively in hostilities; intentionally directing attacks against the civilian population; and ordering the displacement of the civilian population for reasons related to the conflict.

92. It also finds reasonable grounds to believe that SAF committed the war crimes of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture; and committing outrages upon personal dignity, in particular humiliating and degrading treatment.

Crimes against humanity

93. Crimes against humanity concern the commission of prohibited acts as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. An attack against the civilian population involves multiple acts directed against a predominantly civilian population pursuant to or in furtherance of a State or organizational plan or policy, which may be inferred from the acts.³⁰

94. The Fact-Finding Mission has established the existence of a large-scale attack by RSF and allied militias against the predominantly non-Arab civilian population, in particular the ethnic Masalit, in El-Geneina, West Darfur, and other areas along flight routes of civilians coming from El-Geneina. On the basis of an examination of the facts, it finds that this attack was widespread and/or systematic in nature. It further finds, on the basis of inferences drawn from the facts, that the attack was carried out pursuant to or in furtherance of an organizational policy.

95. The Fact-Finding Mission finds reasonable grounds to believe that RSF and allied militias committed the crimes against humanity of murder; torture; enslavement; rape, sexual slavery, and acts of a sexual nature of comparable gravity; persecution on the basis of intersecting ethnic and gender grounds in connection with the foregoing acts; and forcible displacement of population.

VIII. Accountability

96. Sudan carries the primary responsibility to prevent and halt violations and abuses of human rights and violations of international humanitarian law. In line with the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law it must provide remedies and reparations to victims.

Sudan's domestic legal system

97. Following the removal of former President Omar Al-Bashir, the 2019 Transitional Constitutional Document (Constitutional Decree No. 38), amended in 2020 by the Juba Peace Agreement, set out legislative and institutional reforms to be undertaken by State agencies to address the country's legacy of past violations. The process was, however, cut short following the 2021 military takeover and the subsequent eruption of the current conflict.

98. Sudan's Criminal Act of 1991, as amended in 2009, allows for the prosecution of certain acts as war crimes, crimes against humanity and genocide at the domestic level. The Armed Forces Act of 2007, amended in 2022, also contains provisions on war crimes. However, the categories and definitions employed in the Sudanese legislation are narrower than the ambit recognized by international law thereby impeding accountability for the full range of international crimes committed at the national level.

99. In terms of judicial and legal infrastructure, the Fact-Finding Mission received information on the destruction of government buildings and records, in particular in Khartoum and the Darfur States, by RSF. Several interviewees noted the targeting of courts,

³⁰ See e.g., ICTY, *Prosecutor v. Kordić and Čerkez*, Judgement (TC), IT-95-14/2-T, 26 February 2001, paras. 178-182.

including in El-Geneina, Nyala and Zalingei, and the destruction of records. Prisons were also attacked in several locations and detainees were reportedly released by the warring parties, demonstrating the breakdown of the rule of law.

Accountability mechanisms in SAF controlled areas

100. On 21 July 2023, the Sudanese authorities established a National Committee of Investigation on Human Rights Violations, War Crimes, and Violations by the Rebel Rapid Support Forces and Other Crimes. According to the Sudanese authorities, as of 18 June 2024, the number of registered criminal cases had reached 12,470 and 346 arrest warrants had been issued against the “commanders and employees” of RSF.³¹ The Sudanese authorities also indicated that 65 cases had been tried. The Fact-Finding Mission notes, based on the list included in the progress report circulated by the Sudanese authorities in the context of the 56th session of the Human Rights Council, that only two of the 65 cases appear to include charges of international crimes. The other cases concern offences against the state and sedition. The Fact-Finding Mission received information that these cases target Sudanese civilians for their activities as lawyers, humanitarians, grassroots activists, human rights defenders, or Emergency Response Rooms. This is indicative of the National Committee being involved in selective justice, primarily targeting activists perceived as RSF affiliates.

101. A second Committee was established by the authorities focusing on international lawsuits, including submission of information on RSF crimes to the International Criminal Court.³² In his statement to the Security Council of 5 August 2024, the Prosecutor of the International Criminal Court noted that his Office finally received cooperation from Sudan and that his team could enter Port Sudan, and have managed to collect evidence.³³

102. To date, accountability efforts undertaken by the authorities focus on crimes committed by RSF and its perceived affiliates. The Fact-Finding Mission has not received any information on investigations and prosecutions, where appropriate, of SAF members or other government entities for international crimes. The Fact-Finding Mission believes that the developments at the domestic level are indicative of a lack of willingness to investigate and prosecute all those responsible on an equal basis. Victims have also informed the Fact-Finding Mission of their lack of trust in the domestic justice system, including fear of reprisals for reporting violations committed by SAF and other government entities.

Accountability mechanisms in RSF controlled areas

103. RSF announced that it had established a “Commander Fudail Investigative Committee” to investigate all criminal activities in areas under its control as well as a special investigative committee to look into reported mass killings in Ardamata.³⁴ The Prosecutor of the International Criminal Court noted that whilst his office had received the names of individuals that RSF contended were part of an investigative committee, no information had been transferred from RSF to his office, “either in relation to allegations against RSF or in relation to any allegations regarding the SAF.”³⁵

104. The Fact-Finding Mission has further received allegations indicating the establishment by RSF of its own administration in areas under its control, including a field court under its head of administration to address criminal activities. The Fact-Finding Mission has not been able to obtain further information on these mechanisms, including any of its activities, which seem to have had no discernable impact on violations by RSF and allied militias. The Fact-Finding Mission is concerned that these courts have been set up outside of the framework of the law and therefore lack any legal basis and the necessary fair trial guarantees.

³¹ Statement by the Attorney-General of Sudan at the 56th session of the Human Rights Council.

³² A/HRC/55/G/22, page. 12.

³³ <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc-united-nations-security-council-situation-darfur-2>.

³⁴ See e.g., Special Procedure communication OTH 101/2023, response of January 2024.

³⁵ <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc-united-nations-security-council-situation-darfur-1>.

IX. Options for accountability and access to justice for victims

105. For peace to sustain in Sudan, there is a need for accountability. The Fact-Finding Mission considers that only a comprehensive transitional justice process with appropriately endowed mechanisms can address the impunity and justice gaps in Sudan and provide remedies and reparations for victims. In this context, the 2023 updated Guidance Note of the Secretary-General on Transitional Justice and the 2019 African Union Transitional Justice Policy Framework are of high relevance to the situation in Sudan today. These policy documents incorporate the four pillars of transitional justice: justice, truth, reparations and guarantees of non-repetition.

106. With regard to the first pillar on justice, one mechanism already in place is the continuing jurisdiction of the International Criminal Court over crimes committed in Darfur since 1 July 2002. The role of the Court remains crucial, particularly in light of the decades of prevailing impunity. Since the Security Council referral, the Court has issued seven warrants of arrest. The trial against one individual, Ali Muhammad Ali Abd-Al-Rahman who was transferred to the Court on 9 June 2020, is ongoing. In one case the charges were not confirmed, another case was terminated following the death of the suspect, and four others, including former President Omar Al-Bashir, remain at large. The Prosecutor of the International Criminal Court indicated on 5 August 2024 that some requests for assistance were actioned by Sudan while others remained pending.³⁶ With the spread of the conflict to most of Sudan, the Court's jurisdiction should now be expanded to cover the entire country.

107. Moreover, and since the International Criminal Court focuses on a few cases involving those most responsible for international crimes, other pathways to justice should also be explored to ensure accountability by perpetrators at all levels. Different options can be considered ranging from fully international to hybrid and internationalized judicial mechanisms. States are further encouraged to use universal jurisdiction to pursue individuals suspected of having committed international crimes.

108. Second, the root causes of the violations that have been chronically hampering Sudan from respecting, protecting and fulfilling the human rights of its people must be thoroughly identified and fully addressed. This could be achieved through a genuine truth-seeking process to address the scale of violations committed and their impact on individuals and communities. Truth commissions can be established alongside the proposed judicial mechanism to enhance national dialogue, with the ability to refer cases to the judicial mechanism as appropriate. To foster a culture of accountability, such a Commission should not be endowed with the power to provide immunity or amnesty to those responsible for international crimes.

109. Third, reparations for serious violations of human rights and international humanitarian law, including through restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition as outlined in the abovementioned United Nations Basic Principles, is critical to help victims, survivors, families and communities overcome the devastating impact of the violence.³⁷ The Fact-Finding Mission has heard from Sudanese civil society, human rights defenders, activists, survivors, witnesses, and the legal community about the overwhelming and immediate need for assistance to victims and survivors of the conflict in Sudan within the country and those displaced. A dedicated entity should be established for these purposes.

X. Conclusions and Recommendations

110. As Sudan is in turmoil and its people within and outside the country are experiencing immense suffering, the Fact-Finding Mission concludes that SAF and RSF, and their allied militias, are responsible for large-scale violations of human rights

³⁶ <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc-united-nations-security-council-situation-darfur-2>.

³⁷ A/RES/60/147.

and international humanitarian law. Many of these violations amount to international crimes.

111. The Fact-Finding Mission finds that there are reasonable grounds to believe that SAF and its allied forces have committed the war crimes of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; and committing outrages upon personal dignity, in particular humiliating and degrading treatment.

112. The Fact-Finding Mission finds that there are reasonable grounds to believe that RSF and its allied militias have committed the war crimes of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; committing outrages upon personal dignity; rape, sexual slavery and any form of indecent assault; pillage; conscripting or enlisting children under the age of 15 or using them to participate actively in hostilities; intentionally directing attacks against the civilian population; intentionally directing attacks against persons and objects involved in humanitarian assistance and other specially protected objects; and ordering the displacement of the civilian population for reasons related to the conflict. The Fact-Finding Mission further finds that there are reasonable grounds to believe that RSF has committed the crimes against humanity of murder; torture; enslavement; rape, sexual slavery, and acts of a sexual nature of comparable gravity; persecution on the basis of intersecting ethnic and gender grounds in connection with the foregoing acts; and forcible displacement of population.

113. The Fact-Finding Mission, therefore, recommends the following:

(a) Sudanese people have endured much pain. Their suffering must stop, and their human rights must be protected. This cannot be done without ending the fighting. All efforts must be invested in reaching a sustainable ceasefire that would also enable the effective delivery of the much-needed humanitarian assistance. Concerned by the rampant food insecurity in various parts of Sudan and starvation, the Fact-Finding Mission notes the agreement on opening the Adré border crossing with Chad as a step in the right direction. It applauds the various efforts to bring the parties to the negotiating table and urges any agreement reached, including a permanent cessation of hostilities, to take the findings and recommendations of this report into account.

(b) Given the failure of the parties to protect civilians so far, the Fact-Finding Mission recommends the deployment of an independent and impartial force with a mandate to protect civilians in Sudan. The protection of civilians is paramount, and the parties must comply with their obligations under international law. SAF and RSF and their respective allied forces must refrain from directing attacks against civilians or civilian objects, pillage and looting of property and committing outrageous acts against persons, including torture, rape and other forms of sexual violence, and recruitment and use of children. Ethnically motivated attacks must end. Commanders must issue explicit and detailed instructions to their forces and allied militias to refrain from unlawful acts, also in line with their Jeddah Declaration commitments. They must effectively investigate all violations and bring the perpetrators to justice.

(c) The Fact-Finding Mission considers that fighting will stop once the arms flow stops. Therefore, all states and entities must comply with the existing arms embargo in Darfur pursuant to Security Council Resolution 1556 (2004) and subsequent resolutions. This embargo should also be expanded to cover the entire country. The supply of weapons, ammunition, and other logistical or financial support to any of the warring parties must end immediately as there is a risk that those supplying arms may be complicit in grave violations of human rights and humanitarian law. Businesses and private actors active in Sudan must respect the United Nations Guiding Principles on Business and Human Rights.

(d) Forced displacement must end and the communities that host refugees should be supported. The Fact-Finding Mission applauds the generosity of host communities, including in Central African Republic, Chad, Egypt, Ethiopia, Kenya, South Sudan, and Uganda. It calls on the international community to increase its

financial and other support for Sudanese refugees and their host communities, who themselves face desperate humanitarian needs.

(e) Rape and other forms of sexual violence must end. Women, and youth should also be enabled to meaningfully participate in any peace negotiations or initiatives in line with Security Council Resolution 1325 (2000) to ensure that they take into account their lived experiences and address their concerns. Recruitment and use of children must end, and children must be protected.

(f) The impunity gap in Sudan is among the key root causes of decades of continued violations. The Fact-Finding Mission recommends that the Security Council expands the jurisdiction of the International Criminal Court to cover the entire territory of Sudan. It also urges Sudan to cooperate with the Court through the surrender to it, of all indicted persons, including former President Omar Al-Bashir.

(g) To fully address accountability and to provide justice to victims, a path towards a comprehensive approach to transitional justice must be pursued based on inclusive dialogue and genuine consultations. The establishment of a separate international judicial mechanism working in tandem and complementarity with the International Criminal Court, as well as a truth commission, and a victim support and reparations office, should urgently be considered.

(h) Finally, Sudan comprises a diverse population, endowed with ample resources. Its people deserve to live in peace and prosperity. Many Sudanese that the Fact-Finding Mission spoke with stressed their wish to live in a peaceful, inclusive, and human-rights-oriented Sudan. They spoke of a representative and participatory government, encompassing all communities, where the equal rights of all citizens are respected, irrespective of their race, ethnicity, gender, or economic status. This aspiration must be supported by the international community charting the way towards equality, justice and sustainable peace.
