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Delays and Dilemmas: New Violence in Darfur and Uncertain Justice Efforts within Sudan's Fragile Transition

Fact-finding mission report

Cover photo: July 2020, inhabitants of Fatta Borno, women and men, organised a sit-in to support the Revolution and to protest against the occupation of their land by Arab *janjawid* militias. After a few days, *janjawid* attacked the sit-in, killing ten protesters. The sit-in nevertheless continued. The slogan written in red on the wall reads 'ancestral homeland'. North Darfur, October 2020.
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EXECUTIVE SUMMARY

Darfur deserves freedom, peace and justice

Following the fall of president Omar al-Bashir in April 2019, violence, paradoxically, increased in Sudan's western province, Darfur. Meanwhile, in the mire of divisions between different poles of power and contradictions among the multiple measures adopted, the transitional authorities' efforts towards justice were slow. These divisions contributed to the military coup on 25 October 2021, which risks provoking further violence in Darfur, and halting justice efforts. With the pressure and support of Sudan's international partners, the democratic transition needs to resume and the pace of reform needs to be accelerated.

Bashir's fall, and the transitional arrangements between the military officers who toppled him and opposition civilian politicians, could not have been expected to bring immediate peace to Sudan's war-torn peripheries. This is even more the case in Darfur, at war for nearly two decades. The whole province of Darfur still appears to suffer from the continued presence of Arab militias long supported by the Bashir regime, some integrated into paramilitary forces such as the Rapid Support Forces (RSF), and others independent, at the service of Arab communities rather than supporting the government. These militias have been enabling Arab communities to continue to occupy land from which they have evicted non-Arab residents since the beginning of the conflict in 2003, obliging the latter to take refuge in large camps for Internally Displaced People (IDPs) mostly situated around main towns, as well as in refugee camps in Chad. Militias have continued to use violence to prevent non-Arab IDPs and residents from leaving camps and towns to return to their original villages or simply to farm in rural areas.

However, the recent rise in violence within Darfur's five states, most notably in the one long considered the most peaceful, West Darfur, was not necessarily anticipated. Since December 2019, West Darfur has experienced four waves of violence, three of which took place in or around the state capital El-Geneina. Arab gunmen, acting in response to small scale criminal incidents, repeatedly stormed Kirinding and other camps hosting non-Arab IDPs. They pillaged and burnt houses, killing hundreds of IDPs and forcing the displacement of tens of thousands of others, obliging them to find new shelters in neighbouring towns or in refugee camps in Chad. The role of the divided government forces, both regular and paramilitary, was ambiguous. All actors were slow to react, and some, notably the Arab-dominated paramilitary Rapid Support Forces (RSF), were accused of having directly taken part in attacks. In fact, the RSF appeared torn between their tribal loyalties and the peace agenda publicly advocated by their leader, Mohamed Hamdan Daglo, aka "Hemetti". RSF leaders as well as Darfuri civilians have also pointed to the role of former regime officials in the upsurge in violence, accused of fuelling conflict behind the scenes.

Yet the ethnic dimension of the conflict appears much stronger than that of alleged political conspiracies. Since Bashir's fall, Darfur Arab communities have felt both empowered by the rise of Hemetti as deputy chairman of the Sovereign Council leading the transition and endangered by the October 2020 Juba Peace Agreement engineered by Hemetti himself, clearly stating that occupied land must be evacuated. Meanwhile, non-Arab communities have been more assertive in reclaiming the land from which they were displaced. Peaceful protests, with demands ranging from civilian

democracy at the national level to security and access to land locally, have taken place all over Darfur, some of which were attacked by Arab militias. In West Darfur, the Masalit, the historically dominant community, considering that the transitional government was unable or unwilling to protect them, began to reconstitute self-defence groups, who fought back against Arab militias, reportedly killing hundreds. This new violence quickly spiralled out of the control of the government.

Justice initiatives undertaken by the transitional government to address both crimes committed after Bashir and past crimes were slow and uncertain. While some key international human rights treaties were adopted, progress was lacking in the area of legal reform. The implementation of the Juba Peace Agreement, including key provisions on justice and security, was also much slower than planned in the initial timeline. The multiplicity of provisions on justice, both within and outside the agreement, led to contradictory interpretations, not least on the crucial issue of cooperation with the International Criminal Court (ICC). Progress was also undermined by the persistence of conflicting views between the agreement's signatories, as well as more generally between political players from the central states and those from the peripheries. These divisions contributed to the October 2021 coup.

Sudan urgently needs to resume its transition, and its transitional authorities must resolve such contradictions and clarify their positions in order to end the ongoing violence in Darfur and ensure those responsible for serious international crimes are brought to justice. To achieve this aim, Sudan's international partners also must harmonise their positions and provide concrete support to a civilian-led democratic transition and to the implementation of the Juba Peace Agreement.

LIST OF ACRONYMS

ACJPS	African Centre for Justice and Peace Studies (Sudan)
AMIS	African Union Mission in Sudan
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRP	Central Reserve Police
DDPD	Doha Document for Peace in Darfur
DDR	Disarmament, Demobilisation and Reintegration
DPA	Darfur Peace Agreement
ECCC	Extraordinary Chambers in the Courts of Cambodia
EU	European Union
FFC	Forces of Freedom and Change
FIDH	International Federation for Human Rights
FUC	United Front for Change, former Chadian rebel group led by Mahamat Nur Abdelkarim
GIS	General Intelligence Service
GSFL	Gathering of Sudan Liberation Forces
ICC	International Criminal Court
ICPPED	International Convention for the Protection of all Persons from Enforced Disappearance
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	Internally Displaced Person
JEM	Justice and Equality Movement
NISS	National Intelligence and Security Services (today known as the GIS)
PDF	Popular Defence Forces
RPG	Rocket-propelled grenades
RSF	Rapid Support Forces
SAF	Sudan Armed Forces
SDG	Sudanese pound
SGM	Modernised System Goriunov (machine gun, known by its Russian acronym)
SLA	Sudan Liberation Army
SLA/AW	Sudan Liberation Army faction / Abdelwahid Mohamed Ahmed al-Nur
SLA/MM	Sudan Liberation Army faction / Minni Minawi
SLA/TC	Sudan Liberation Army / Transitional Council
SPLM/N	Sudan People Liberation Movement-North
SRAC	Sudanese Revolutionary Awakening Council
SRF	Sudanese Revolutionary Front
SSR	Security Sector Reform
TMC	Transitional Military Council
UN	United Nations
UNAMID	United Nations African Union Mission to Darfur
UNCAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHRC	United Nations Human Rights Council
UNITAMS	United Nations Integrated Transition Assistance Mission to Sudan
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNSC	United Nations Security Council
USD	United States dollar

MAP OF THE AREA



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METHODOLOGY

This report is based on the results of a joint fact-finding mission in Khartoum and Darfur conducted over five weeks in January-February 2021 by the International Federation for Human Rights (FIDH) and the African Centre for Justice and Peace Studies (ACJPS), FIDH's member organisation in Sudan.

The mission was led by Jérôme Tubiana, researcher for the FIDH Africa Desk. The following places were visited during the mission: West Darfur (including El-Geneina, Kirinding IDP camp, and Misterei locality), Central Darfur (including Zalingei, Hamidiya IDP camp, Nyertiti and Tur localities), and North Darfur. This report also draws on ongoing research conducted by FIDH and its partners, as well as prior research carried out by Jérôme Tubiana in North Darfur (including El-Fasher, Abu Shok IDP camp, Kutum and Fatta Borno) in September-October 2020.

The aims of the fact-finding mission were:

- To document the serious crimes which occurred in Darfur, in particular West Darfur, since Bashir's fall;
- To collect information on local communities' assessment of the security situation in Darfur, the nature and scale of ongoing serious human rights violations against civilians and those responsible for these violations;
- To determine the measures adopted by the Sudanese authorities to address crimes committed before and after Bashir's fall, as well as to protect civilians and resolve conflict;
- To identify the main priorities and expectations of Darfur's population, particularly in terms of justice and peace.

Interviews were carried out mostly on an individual basis and occasionally in groups. Interviewees included:

- Darfuri survivors and witnesses of recent and earlier violence, from various communities, as well as Internationally Displaced People (IDPs) and IDP camp leaders, including women leaders;
- Officials: members of the transitional government, the Sovereign Council, the judiciary, and Darfur's local authorities and native administration (traditional authorities), including Darfuris from all communities; leaders, officers and members of security forces, including Sudan Armed Forces (SAF) and Rapid Support Forces (RSF); Darfuri officials from the former regime;
- Leaders, members and former members of Darfur rebel movements, some now appointed to government positions or integrated into security forces;
- Members of various political parties, including Darfuris;
- Civil society and human rights activists, lawyers and journalists; revolutionary activists, leaders and members of resistance committees and Darfuri intellectuals;
- International stakeholders, including UNAMID (United Nations African Union Mission to Darfur) personnel and former personnel.

Interviews were conducted in local Arabic as well as in other local languages (including Masalit, Fur and Zaghawa) and occasionally in English, with interpretation when needed. For confidentiality and

security reasons, and as a precaution in the context of the COVID-19 pandemic, most informants were interviewed individually and in private locations. The majority of interviews were informal and qualitative. Interviewees were informed of the mission's objectives and the way in which the information would be used. For protection purposes most interviewees have been anonymised in this report.

FIDH and ACJPS sincerely thank all those who contributed to this report, for their time and dedication.



Each evening in Fatta Borno, inhabitants pray at the location of the sit-in for the ten protesters who were killed. North Darfur, October 2020. © Jérôme Tubiana

INTRODUCTION

“After Bashir’s fall, our hope grew but the good didn’t come.”

In December 2018, protests over the rising costs of food and fuel broke out all over Sudan, including in Darfur. As government forces reacted with violence, slogans became increasingly focused on the political power structure, calling for the fall of the military-Islamist regime, which had been led by Omar al-Bashir for the previous thirty years. By April 2019, the protests had evolved into a giant sit-in in front of the army headquarters in Khartoum, aimed at encouraging the neutrality or even the support of the army, as in past uprisings. The strategy was partly successful. On 11 April, high-ranking

military officers, after reportedly refusing Bashir's orders to violently disperse the sit-in, deposed and arrested the president and some of his close associates. They then formed a Transitional Military Council (TMC) led by little-known General Abdelfattah al-Burhan, with General Mohamed Hamdan Daglo, aka "Hemetti", head of the paramilitary Rapid Support Forces (RSF), as deputy chairman. The RSF, armed by the regime to fight the rebellion that emerged in Darfur in 2003 and responsible for massive crimes against non-Arab communities, had become Bashir's praetorian guard. But Hemetti ultimately betrayed his former master and then presented himself as a protector of the revolution and the people.

The sit-in continued, demanding a civilian rather than a military transition. On 3 June 2019, the new military rulers finally responded with violence, dispersing the sit-in, which resulted in more than 128 deaths and 500 injured. The RSF reportedly used live ammunition against demonstrators, threw weighted bodies into the Nile and attacked hospitals and medical personnel. The attacks also involved rape and other forms of sexual violence.

That episode, for which Hemetti is widely considered partly responsible, although the RSF were reportedly not the only force involved, obliged the TMC, under international pressure, to negotiate transitional arrangements with leaders of the Forces of Freedom and Change (FFC), a loose coalition of political groups and civil society organisations formed in January 2019, who claimed to represent the popular uprising. This led to the establishment, in August 2019, of a joint military-civilian Sovereign Council, also headed by al-Burhan with Hemetti as deputy, and a transitional government led by civilian Prime Minister Abdallah Hamdok.

The war-torn western province of Darfur was the theatre of some of the earliest protests. However, protests appeared to be on a smaller scale and were less visible than those in the centre of the country, probably because they were more heavily repressed. Darfuris from Darfur and all over Sudan also took part in the Khartoum sit-in, bringing their own specific demands for peace and justice in their region. Hopes grew, but by 2021, Darfuris appeared largely disillusioned about the transition, its effects and its pace.¹ This frustration fed into the political conflict that led to the October 2021 coup.

From the outset, there was a general perception that the political parties assembled under the banner of the FFC, whose leaders largely hail from the centre of Sudan, did not adequately represent the country's peripheries, not least Darfur. Both Darfuri civilians and rebels, although some of the latter were theoretically part of the FFC, considered that the power-sharing arrangements signed in August 2019 had left aside the issue of peace in the war-torn regions. Darfuri and other rebels asked for their own peace talks, which subsequently took place in Juba, South Sudan, leading to the signature of the Juba Peace Agreement in October 2020. Yet, there is widespread lack of confidence among Darfuri civilians that the deal will be more successful at achieving peace in Darfur than past agreements or the transitional arrangements. "After Bashir's fall, our hope grew but the good didn't come," a traditional leader in Central Darfur commented.² Some Darfuris even claim not to have noticed that Bashir has been removed.

Indeed, violence in Darfur appears to have increased since Bashir's fall, even engulfing some areas which had been relatively stable during the last years of Bashir's rule. In Darfur, the transitional authorities failed to fulfil their promise to protect civilians better than the United Nations African Union Mission in Darfur (UNAMID), at one point with a force of 20,000, which withdrew in December 2020 on the grounds that Darfur was sufficiently stable and the transitional government was able

1. Jérôme Tubiana, "The revolution was hijacked": Inside the conflict in Darfur." *Aljazeera Long Read*, 6 July 2021, <https://www.aljazeera.com/features/2021/7/6/the-revolution-was-hijacked-inside-the-conflict-in-darfur>.

2. FIDH, ACJPS, Interview with traditional leader, Central Darfur, February 2021.

to ensure security itself. The transitional authorities failed to deliver on their promises of justice, not the least to surrender to the International Criminal Court (ICC) Omar al-Bashir and two former regime barons (Abdelrahim Muhammad Hussein and Ahmad Harun) detained in Khartoum, against whom the Court issued arrest warrants for international crimes committed in Darfur.³ But even their slow efforts were seen as a threat by military leaders, which also likely contributed to the 2021 coup.

This report examines serious episodes of violence which have taken place in Darfur, in particular West Darfur, since Bashir's fall. It analyses the causes of this resurgence of violence, as well as the measures taken by the transitional authorities to protect civilians, resolve conflicts, and hold perpetrators accountable. It reviews largely stalled efforts towards justice and peace in Darfur at the national level, including within the framework of the Juba Peace Agreement. Finally, it examines some of the contradictions between political players and the multiple provisions they put forward, which all contributed to the October 2021 coup, endangering the process towards civilian transition.

3. *Sudan Tribune*, "Press Sudan to surrender Haroun, Bensouda tells Security Council", 9 June 2021

Main players since Bashir's fall

- **Sovereign Council:** In August 2019, an agreement between Sudan's Transitional Military Council and the civilian coalition of the Forces of Freedom and Change, led to the formation of this mixed military-civilian body acting as head of State, and dissolved by the October 2021 coup. It was headed by General Abdelfattah al-Burhan, with General Mohamed Hamdan Daglo, aka "Hemetti", as deputy. On 11 November 2021, al-Burhan re-appointed the Council's military members and the representatives of the rebel signatories to the Juba peace agreement, excluding those from the FFC.
- **TMC:** The Transitional Military Council, also headed by al-Burhan with "Hemetti" as deputy, acted as head of State between Bashir's fall in April 2019 and the formation of the Sovereign Council in August 2019.
- **SAF:** The Sudan Armed Forces are the country's regular army.
- **RSF:** The Rapid Support Forces, the powerful paramilitary force headed by Hemetti, formed in 2013, are officially under the command of the "Supreme Commander of the Armed Forces" (al-Burhan) but remain largely autonomous.
- **CRP:** The Central Reserve Police, under the Interior Ministry, is one of the paramilitary forces into which Darfur *janjawid* militias were integrated, after the Popular Defence Forces (PDF) and the Border Guard, and before the formation of the RSF.
- **NISS/GIS:** The Bashir regime's powerful National Intelligence and Security Service was rebranded General Intelligence Service after Bashir's fall, and appeared largely weakened, although it seems to play a more important role since the October 2021 coup.
- **FFC:** The Forces of Freedom and Change is a coalition composed of opposition political parties, civil society groups and rebel groups which spearheaded the revolution against the Bashir regime and agreed with the TMC to share power within mixed military-civilian institutions. The FFC nominated civilian members of the Sovereign Council and the cabinet, including Prime Minister Abdallah Hamdok. In mid-2021, Hamdok tried but failed to reunite the fragmented coalition in order to garner more support for his cabinet.
- **SRF:** The Sudan Revolutionary Front is a coalition of the main Sudanese rebel groups, and a founding member of the FFC. Its main members are the SPLM-N wing under Malik Agar, JEM, GSLF and SLA-TC (see below). It is led by SLA-TC chairman Al-Hadi Idris, who became a member of the Sovereign Council after the SRF signed the Juba Peace Agreement with the government in October 2020. The SRF was weakened by the split of SLA-MM in May 2020, which allied with JEM to form a separate wing of the FFC in October 2021.

- **SPLM-N:** The Sudan People's Liberation Movement-North is made up of the northern Sudanese wing of the Sudan People's Liberation Movement/Army (SPLM/A), which became the ruling party of independent South Sudan in 2011. SPLM-N, chaired by Malik Agar, then resumed fighting in the "two areas" of South Kordofan and Blue Nile. SPLM-N was considerably weakened by the split of its chief of staff Abdelaziz al-Hilu, who controlled most of the movement's territory and troops in the two areas. After the Juba Peace Agreement was signed, Malik Agar became a member of the Sovereign Council and his close associate Yasir Arman an adviser to Prime Minister Hamdok. The SPLM-N wing under Abdelaziz al-Hilu refused to join the Juba Agreement but took part in separate negotiations, which stalled over stronger demands on secularism, self-determination for the two areas, and security arrangements.

- **JEM:** The Justice and Equality Movement is one of the two original Darfuri rebel movements, and an SRF member. Following the Juba Peace Agreement, its leader Dr. Jibril Ibrahim was appointed Sudan's Finance minister. Not hiding its Islamist ideology, the JEM aimed to bring together the fragmented Islamists, who, whether they supported or opposed the Bashir regime, were excluded from government after Bashir's fall. The movement opportunistically allied with the secular SLA-MM to form a rival wing of the FFC and support the 25 October 2021 coup.

- **SLA-TC:** The SLA-Transitional Council, a splinter of SLA-AW which joined the SRF. Its leader Al-Hadi Idris became SRF chairman and, following the Juba Peace Agreement, a member of the Sovereign Council, while its chief negotiator Nimir Abderrahman was appointed North Darfur governor.

- **GSLF:** The Gathering of Sudan Liberation Forces, an important coalition of splinter factions from the original Darfuri rebel groups, and a member of the SRF. Its leader Taher Hajer became a member of the Sovereign Council following the Juba Peace Agreement.

- **SLA-MM:** The Sudan Liberation Army (SLA) was originally the main Darfuri rebel movement. In 2005, it divided into two factions, one led by Minni Minawi and known as SLA-MM. SLA-MM was a member of the SRF until it withdrew from the coalition in May 2020, attempting to form its own SRF wing and negotiating separately in Juba. After the agreement's signature, Minawi was appointed governor of the whole Darfur region. In the wake of the October 2021 coup, he opportunistically allied with the JEM to form a separate wing of the FFC, demanding the dissolution of the government. After the coup, Minawi backtracked, calling for the liberation of political prisoners, condemning the killing of protesters and asking for accountability.

- **SLA-AW:** The faction of the SLA under Abdelwahid Mohamed Ahmed al-Nur has consistently rejected peace talks and peace agreements since 2006, including the latest Juba Peace Agreement. It remains influential in Darfur, in particular within IDP camps and within the Fur community.

I. NEW PATTERNS OF VIOLENCE IN DARFUR SINCE BASHIR'S FALL

Since the popular uprising which triggered the fall of Omar al-Bashir in April 2019, new violent incidents, including attacks by security forces on civilians and unarmed protesters, as well as clashes between communities and among rival security forces, have taken place all over Sudan, most notably in Darfur. Overall, violence has increased in Darfur since Bashir's fall, with more than 77,000 newly displaced people between mid-2019 and mid-2020, and a 17% increase in civilian fatalities in the period surrounding Bashir's fall.⁴ According to the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), the number of "incidents of inter-communal violence reported in Darfur doubled during the second half of 2020 compared to the same period in 2019", rising from 15 to 28 incidents.⁵ Between January and September 2021, further displacement of more than 330,000 people in West, Central, South and North Darfur, about seven times more than during the whole of 2020, constituted the highest number of displacements in at least six years.⁶ Violence notably occurred in parts of Darfur which had been relatively peaceful for about a decade, in particular West Darfur state.

The new violent episodes in Darfur appeared familiar and reminiscent of early patterns of the Darfur war and of the years of intercommunal violence which preceded the eruption of the Darfur rebellion in 2003. Indeed, most of the post-Bashir violence in Darfur took the form of attacks by armed members of Arab communities, including members of security forces, against generally unarmed non-Arab civilians; and included murders of those civilians, rapes of women, enforced disappearances, widespread forced displacement of population (often already displaced as a result of previous violence), burning of houses, and pillaging. Beginning in December 2019 and until mid-2021, with no sign of abating, such crimes took place in particular in West Darfur, but also in Central, South and North Darfur. The attackers often appeared to be from the same groups as those responsible for violence in the early stages of the conflict – members of Arab militias nicknamed "*janjawid*", heavily supported by the Bashir regime and gradually integrated into more "regular" government forces, starting with the Popular Defence Forces (PDF) and the Border Guard, and then, since 2013, into the powerful Rapid Support Forces (RSF).

However, new forces emerged: Darfur non-Arab youths widely participated in local revolutionary protests and the resistance committees organising them. Those unarmed activists carried more than the revolutionary demands for a civilian government that spread all over Sudan – they also voiced local demands for security and justice, including the return of the displaced to their original land and the eviction of the Arab settlers. The long-standing nature of these demands by the rebel movements indicates a level of cohesion between the diverse political actors in Darfur, but also signals the adoption by the youth of new, unarmed tactics (protests and sit-ins), which since 2019 have proved more successful than armed insurgency. This does not however mean that non-Arab communities have given up armed action. In particular in West Darfur, the uncertainty of the post-Bashir era led

4. ACLED, *Riders on the Storm*, 27 August 2020, <https://acleddata.com/2020/08/27/riders-on-the-storm-rebels-soldiers-and-paramilitaries-in-sudans-margins/>; EPON, *Assessing the Effectiveness of the United Nations-African Union Hybrid Operation in Darfur (UNAMID)*, 2020, p. 90.

5. UNOCHA, *Inter-communal violence increased in Darfur during the second half of 2020*, 17 January 2021.

6. See UNOCHA, "SUDAN: Intercommunal Conflicts and Armed Attacks (January-September 2021)", 30 September 2021.

to the remobilisation, within the non-Arab Masalit community, of self-defence traditional systems and groups, attempting to resist Arab attackers. In addition, in the aftermath of the October 2021 coup, Darfur towns, most notably Nyala, witnessed anti-military protests on an unprecedented scale, leading to a massive wave of arrests (at least 71 detained by 15 November 2021).

1. West Darfur

Having been considered the most peaceful of Darfur's states for about a decade, since Bashir's fall West Darfur has become the state suffering the greatest violence. According to UNOCHA, since 2020, "there has been a significant increase in reported cases in West Darfur", accounting for half of the violent incidents reported in 2020, and at least 78% of the deaths recorded between January and September 2021.⁷ The state was, in particular, impacted by four deadly incidents, including two attacks by armed Arabs against Kirinding camp, harbouring about 50,000 people, mostly Masalit IDPs, situated outside the capital of West Darfur El-Geneina.⁸

The four incidents began with small scale individual violence opposing members of Arab (or Arabised or allied) communities, and members of non-Arab communities, chiefly but not only the Masalit, the main ethnic group in West Darfur. Despite the small scale, persisting uncertainties over the facts surrounding such violence, and the fact local authorities had sometimes arrested the alleged perpetrators, Arab communities mobilised and reacted quickly, violently and massively. Those violent reactions were encouraged by physical and social media mobilisations, sometimes involving officers of security forces.

1.a. Kirinding, December 2019

The first attack was preceded by a series of reciprocal killings of Masalit and Arab civilians, including women, which took place in late 2019. It was triggered by a dispute between an Arab man and a non-Arab man, both in their twenties, in a TV club at Kirinding camp market, on 29 December 2019. The Arab man was reportedly a member or ex-member of the RSF, based in South Darfur but originally from Chad, who had recently returned from Yemen (where many RSF have been deployed within the Saudi-led coalition against the Huthi rebels). The non-Arab man was identified either as a Masalit IDP or as a member of another non-Arab community from Chad. It was also rumoured that the dispute may have been connected to drugs. In recent years, due to its proximity with Chad, El-Geneina is said to have become a hub for drug trafficking, in particular the cheap and increasingly popular synthetic opioid Tramadol, notably imported from Nigeria.⁹ Trafficking in West Darfur is said to involve a division of labour between Arabs and non-Arabs, with the former, due to their tribal connections with RSF members manning checkpoints, specialised in transporting the drugs, and the latter, with their knowledge of local consumers, specialised in distributing it locally. Disputes nonetheless occur.

After a heated discussion, the non-Arab man stabbed the Arab man, who died later in an ambulance.¹⁰ According to Arab leaders, the victim had just arrived at the nearby bus station on a bus from Nyala, and three relatives who had come from El-Geneina to pick him up were also killed, reportedly by a

7. UNOCHA, "SUDAN: Intercommunal Conflicts and Armed Attacks", *op. cit.*

8. See Jérôme Tubiana, "The revolution was hijacked", *op. cit.*; and "Darfur Is Bleeding Again," *Foreign Affairs*, 25 May 2021, <https://www.foreignaffairs.com/articles/africa/2021-05-25/darfur-war-sudan-new-government>.

9. See <http://edition.cnn.com/2017/12/14/health/un-tramadol-trafficking-intl/index.html>.

10. Commission of Indictment for Private Right for Kirinding IDP camp massacre, *A preliminary report on the legal investigations into the massacre of Kirinding camp for Internally Displaced Persons (IDPs)*, n.d. (document seen and translated from Arabic by FIDH).



Displaced women visiting their houses burnt down in January 2021, Kirinding IDP camp, West Darfur, February 2021. © Jérôme Tubiana

Masalit civilian armed with a “Goronov” (SGM-type) machine gun.¹¹ Although the perpetrator of the initial crime was arrested by the police, that evening, a retaliatory raid by 50 armed Arabs on five RSF vehicles reportedly killed four Masalit, including, randomly, three watermelon sellers on the camp’s market, and intentionally, a policeman.

On the morning of 30 December 2019, a rally of members of Arab communities gathered in front of the state government’s secretariat. An Arab lawyer, Salaheddin al-Nur, delivered a speech demanding the removal of Kirinding camp’s market within 24 hours, to a crowd shouting cries of vengeance against the IDPs. According to a video of the event, the rally and the speech were attended, and backed, by top officers of the security forces, including the then West Darfur RSF commander, Lieutenant-Colonel Musa Hamid Duday, aka “Ambello”, as well as the state’s SAF (Sudan Armed Forces) 15th Infantry Division commander, Brigadier General Fadl Yasin Saleh Hamdan, and Military Intelligence Captain Yusef al-Bashir Mohamed.¹² Among the attendees were reportedly a hundred RSF men in uniform.

Shortly afterwards, armed Arabs, estimated to number approximately 2,000, in cars, on motorbikes and horses, attacked Kirinding camp. Arab leaders described the move as “self-defence”.¹³ The

11. Interviews with Arab traditional and political leaders from West Darfur, Khartoum and El-Geneina, February 2021.

12. See https://youtu.be/CmAQ8_Li4oY; Commission of Indictment for Private Right for Kirinding IDP camp massacre, *op. cit.*

13. Interviews with Arab traditional leaders from West Darfur, February 2021.

attackers reportedly included members of the RSF in uniforms and in their official vehicles, mounted with DshK-type machine guns, led by Ambello himself.¹⁴ They were accused of transporting civilian Arab attackers in their official vehicles, providing them with ammunition, protecting them, evacuating injured only among the Arabs, as well as directly participating in fighting. Some attackers in civilian clothing and vehicles were also accused of being RSF members.

The attack reportedly lasted three days.¹⁵ Between 60 and 90 mostly Masalit IDPs were reportedly killed, including seven or eight women and three children, and 101 to 127 were injured; two abducted IDPs are considered disappeared. There are some discrepancies between different casualty figures, including between those presented by UNAMID (an official figure of 65 IDPs killed and 54 injured), contrasting with higher numbers reportedly compiled by the Human Rights section of the mission (no report was published) and a figure of “at least 90 civilians” killed mentioned by the United Nations Security Council (UNSC) Panel of Experts on the Sudan.¹⁶ According to Arab leaders, more than 20 Arabs were also killed by armed IDPs, and some injured.¹⁷ Arab casualties reportedly included an RSF soldier.

At least 35 women or girls were reportedly raped, including two minors. Twenty-one of them were raped during the attack, and 14 abducted from the camp and raped over the following two days. Actual figures may be higher as victims often do not report such crimes, partly due to fear of stigma. Of the 35 documented cases, only 21 were reported to the police. One victim was subsequently reportedly divorced by her husband. Two of the perpetrators were alleged to have been wearing RSF uniforms.

One third of the camp was reportedly burnt. Most of the camp’s 50,000 residents sought refuge within El-Geneina town, only to return after several months. On 31 December 2019, armed Arabs also reportedly looted and burnt forty villages across West Darfur, including “return villages” to which IDPs had gone back after a decade, killing at least twelve civilians and provoking new displacements to Chad (some have since returned again).¹⁸ In El-Geneina, the Masalit sultan’s museum, containing objects of symbolic and historic importance for the Masalit community, was looted.

Government security forces only intervened at a late stage, although their presence may have contributed to putting an end to the violence. Initially, SAF (Sudan Armed Forces) troops allegedly avoided confronting the attackers. The state’s SAF commander allegedly withdrew ten SAF vehicles from Kirinding and switched off his phone. Local SAF and police forces were reportedly first deployed on 31 December 2019, for the sole purpose of protecting a joint military delegation of SAF, RSF and GIS (General Intelligence Service, formerly NISS-National Intelligence and Security Service) from Khartoum, which arrived on 1 January 2020. Some 50 RSF cars then came from Zalingei, Central Darfur. The next day, an official visit by another government delegation from Khartoum, including Prime Minister Abdallah Hamdok and Mohamed Hamdan Daglo, aka “Hemetti”, the Sovereign Council’s deputy head and RSF commander, also reportedly contributed to lowering tensions. That same day, as SAF reinforcements from Central and South Darfur approached the town, and as police forces reportedly exchanged fire with attackers without causing casualties, the attackers reportedly withdrew from Kirinding. A 300-vehicle joint force of SAF, RSF, police, and GIS was then reportedly deployed.

14. See *Report of the Panel of Experts on the Sudan established pursuant to Resolution 1591 (2005) addressed to the President of the Security Council, S/2021/40*, 13 January 2021, p. 66, <https://undocs.org/S/2021/40>; Commission of Indictment for Private Right for Kirinding IDP camp massacre, *op. cit.*

15. See Commission of Indictment for Private Right for Kirinding IDP camp massacre, *ibidem*.

16. See *Report of the Panel of Experts, op. cit.*, p. 66.

17. Interviews with Arab traditional leaders from West Darfur, February 2021.

18. *Report of the Panel of Experts, op. cit.*, p. 66.

1.b. Misterei, July 2020

The second main violent attack took place in July 2020 in the Masalit town of Misterei, a community of 75,000 to 80,000 mostly Masalit inhabitants, including a majority of IDPs from neighbouring villages, south of El-Geneina. The attack was preceded by a series of small-scale incidents, including murders and livestock rustling, involving perpetrators and victims from both Arab and Masalit communities, as well as other communities. Arab leaders claim that during 2020, on at least 22 occasions, Arab civilians were killed by armed Masalit in West Darfur and that local authorities failed to react, so that Arab communities “started defending [them]selves and killing in self-defence”.¹⁹ Among the alleged possible perpetrators is a small Masalit gang led by Ahmad Hasan, aka “Joker”, a former or self-styled rebel turned livestock rustler, operating in the Misterei area and sometimes bringing livestock, looted from Arabs, to Misterei market.

Among the incidents that preceded the July attack on Misterei, the killing of an Arab man a few kilometres from Misterei in May 2020 led to an attack on three Masalit return villages in the area, notably Kheir Wajid, by armed Arabs, reportedly including members or ex-members of the RSF and the Border Guard. Three Masalit were killed, the villages looted and burnt, and returnees took refuge in Chad for the second time.

Further incidents included the killing of three civilians (two men and a girl) from the Sharafa Arab community (known in neighbouring eastern Chad as a branch of the large Salamat tribe), allegedly by Masalit perpetrators. This was followed by the killing of three other civilians, including a woman, this time belonging to the Mimi (or Mima) non-Arab community, allegedly by Masalit perpetrators. Some Masalit informants themselves blamed “Joker”. Others claimed that the murders were due to an internal conflict within the Mimi community or between Mimi and Arabs, but that the corpses were brought to the location where they were discovered, seven kilometres from Misterei, in order to accuse the local Masalit community.²⁰

Originally from the area of Biltine in north-eastern Chad, the Mimi are one of several communities that were pushed by waves of drought in the 1970s and 1980s to migrate south, both to the Dar Sila region of south-eastern Chad and to neighbouring West Darfur. Between 2005 and 2010, both Arab and non-Arab newcomers to Dar Sila (including Mimi and Waddayans originally from the Wadday region of eastern Chad) attacked civilians from the Dajo community, considered the first settlers and the original landowners. More than an Arab versus non-Arab confrontation, that conflict thus pitted newcomers and earlier settlers against each other, over land.²¹ Similarly, Mimi who settled in West Darfur had become closer to local Arab communities, including some who were originally from Chad and had also been pushed south by droughts, and were challenging the original land ownership by the Masalit community. It appears that West Darfur Mimi consider themselves as Arabs, and are accepted as such by local Arabs, this being further facilitated by intermarriages. This explains why the murder of Mimi civilians was used as a justification for the July 2020 attacks by allied armed Arabs and Mimi, on Masalit in Misterei area.

Such phenomena of alliances straddling ethnic identities and the Arab/non-Arab divide, involving a redefinition of some communities’ identity and their Arabisation, are not new in Darfur. At the beginning of the conflict in 2003, members of several non-Arab, partly Arabised communities – often sharing

19. Interviews with Arab traditional leaders from West Darfur, February 2021.

20. Interview with Masalit activists, Khartoum, February 2021.

21. Jérôme Tubiana, “Why Chad Isn’t Darfur and Darfur Isn’t Rwanda,” *London Review of Books*, Vol. 31, No. 24. 17 December 2009, pp. 33–35. <http://www.lrb.co.uk/v31/n24/jerome-tubiana/why-chad-isnt-darfur-and-darfur-isnt-rwanda>.

with the Arabs the need to acquire land rights which, as newcomers from Chad or North Darfur, were denied to them – were recruited among the *janjawid*: they included in particular members of the Gimir, Tama and Borgo (or Wadday, both Tama and Wadday being originally from eastern Chad), as well as Fellata (or Pula, originally from Central and West Africa). However, in various locations, members of those communities were also targeted by Arab militias. This was also the case of the Mimi, including recently in West Darfur.²²

The violence, including the attacks on the three Masalit villages, led to a protest sit-in organised on 9 July 2020 in Misterei, in front of the local administration building, echoing a series of similar sit-ins all over Sudan at the same period.²³ In Misterei and other Darfur locations, the protesters not only voiced demands for a civilian government but also Darfur-specific demands on security and justice, including the protection of farmers from attacks and destruction of the crops by pastoralists, the return of the displaced to their original land, the eviction of Arab “newcomers” occupying some of those lands, the disarmament of Arab militias and the arrest of alleged perpetrators of attacks, including, in the case of Misterei, the perpetrators of the attacks on the three neighbouring villages. On 17 July 2020, the protesters presented their demands to the state (then military) governor, who reportedly received them coldly. This was also the date of the reported discovery of the Mimi corpses.

The Arabs felt targeted by the sit-in’s slogans. During the sit-in, Misterei youth also prevented Arabs from entering the town and accessing the market.²⁴ The sit-in was the target of a subsequent attack by Arabs and Mimi on Misterei, on 18 July 2020. It was reportedly preceded by a rally of about 600 Arabs and Mimi, including members or ex-members of the RSF or Border Guard, some of them wearing uniforms. Some 150 of them in cars, on motorbikes, camels and horses then moved to Misterei.²⁵ Arab leaders claim that the gathering was initially a *faza’*, a group following the footprints of the perpetrators, and that those footprints led to Misterei, but that the *faza’* was stopped by the local police unit, and then, as it was in negotiations with the police, confronted by armed Masalit.²⁶

No Masalit were killed, but 17 to 25 were reportedly injured. Some of the attackers were allegedly killed by Masalit fighters, reportedly succeeding in repelling the attackers after three hours. Prior to this, the sit-in had been dispersed, some 150 to 200 houses had been burnt and properties, including 450 heads of livestock, looted.²⁷ Several villages around Misterei were also attacked.

A larger attack on Misterei took place on 25 July 2020, allegedly by 500 men in civilian cars, on motorbikes, horses, camels and foot, armed with DshK-type machine guns and RPGs (Rocket-Propelled Grenades).²⁸ According to Masalit witnesses who said they were able to identify several of the attackers, some were Arabs from a village called Kadmule, 20 kilometres from Misterei, whose original Masalit inhabitants had been displaced to Misterei and Chad at the beginning of the conflict.²⁹ Arabs had reportedly settled there in 2008-2009 and renamed the village Dar el-Salam (the “land of peace”). Some of the attackers were said to be members or ex-members of the RSF or Border Guard, although they were dressed in plain clothes during the attack. Other attackers, including Arabs, Mimi, and other non-Arabs allied to the Arabs, had allegedly come from eastern Chad for the attack.

22. Including reportedly in Misterei itself on 25 July 2020.

23. In Darfur, beginning in late June 2020, sit-ins took place in Nyertiti in Central Darfur, Fatta Borno, Kutum and Kebkabiya (North Darfur), Ed-Da’ein and Abu Mataraq (East Darfur). See *Report of the Panel of Experts, op. cit.*, p. 28.

24. Interview with West Darfur Governor Mohamed Abdallah Al-Doma, El-Geneina, February 2021.

25. See *Report of the Panel of Experts, op. cit.*, p. 70.

26. Interviews with Arab traditional leaders from West Darfur, February 2021.

27. See *Report of the Panel of Experts, op. cit.*, p. 71.

28. *Ibid.*, p. 32.

29. Interview with Masalit witnesses, Misterei, February 2021.

On that occasion, 60 to 80 mostly Masalit residents were reportedly killed (including 20 women and eleven minors), 84 to 100 injured, 2,500 to 3,000 houses burnt and properties, including livestock, looted.³⁰ Rapes may have taken place, but were not reported, possibly due to fear of stigma. Women reported having been “beaten and tortured”.

Other villages in the area, including villages to which IDPs and refugees had returned, were also targeted, and violence spread once again to El-Geneina.³¹ At least 2,500 Masalit were displaced to Chad, including some who had formerly returned from refugee camps there.

This time, the Masalit community reacted more strongly. After the December attack of Kiriding, noting the complicity of some of the security forces as well as the inability of others to protect them, the Masalit begun to mobilise or remobilise self-defence groups, based on traditional structures and functions, and to collect money to procure firearms. Misterei had been, and became again, a stronghold for such mobilisation. On 25 July 2020, Misterei self-defence militia responded to the attack and reportedly contributed to repelling the attackers, allegedly killing 30 to 100 of them.

The community also requested SAF forces in Misterei to intervene. When the SAF commander refused to do so, an altercation ensued, during which he received an injury to the head. As the attackers were getting closer to the SAF base, reportedly intending to loot ammunition, the villagers convinced or forced the SAF to fight, reportedly threatening them at gunpoint. As a result, SAF forces reportedly allowed the self-defence militia to use SAF weapons, which were returned to SAF after the attack.

Some Misterei community members consider that fight as the first Masalit victory, at least since the beginning of the war in Darfur in 2003. The “victory” was however ambiguous. Beyond the death and destruction, segregation between Arab and Masalit communities in the area was aggravated. Arab herders virtually besieged Misterei, and the fear of being targeted prevented Masalit from leaving the town to farm, triggering a decrease in farming production – hence, the state governor sent police vehicles to protect farming activities. In return, Arabs and Mimi were virtually forbidden from entering Misterei and accessing its market. In January 2021, persistent tensions even pushed Masalit to destroy some of their own wells near Misterei, in order to prevent Arab herders approaching the town.

30. See *Report of the Panel of Experts, op. cit.*, p. 32.

31. *Ibid.*, p. 68.

Return to Nyoro³²

In 2012, *The New York Times* published a very optimistic dispatch from a West Darfur village called Nyoro (or Nyuru), located between Misterei and El-Geneina. It was titled “A Taste of Hope Sends Refugees Back to Darfur”, and notably included an enthusiastic quote of the UNAMID head for “the western sector of Darfur”, stating: “It’s amazing. The people are coming together. It reminds me of Lebanon after the civil war.”³³ The piece was immediately contested by prominent Darfur activists.³⁴

As early as 2009, pockets of stability allowed some returns in West Darfur, including IDPs and, to a lesser extent, refugees in Chad. Returns increased after the 2010 Chad-Sudan rapprochement but proved very fragile. They were often temporary – to cultivate during the rainy season. Another important motivation for the return of the displaced was the fear that, if they were absent for too long, they would lose their land and their rights to it, pushing some IDPs to take considerable risks.

Nyoro was one of these pockets experiencing returns, mostly by IDPs rather than refugees in Chad. In 2003, the village’s 400 households had mostly been displaced to Misterei, with a few seeking refuge in Chad. In 2009, the government funded the building of 1,500 small standard houses, allowing the return of 739 families, mostly from Misterei and a few from Chad.

The returnees managed to establish relatively good relations with neighbouring Arab communities. Those were originally Chadian Arabs from the Misseriya and Rizeigat tribes who, by their own acknowledgement, had settled in the area between 2003 and 2006, upon hearing the land was empty and would be good for herding. By 2021, 90 Arab families were reportedly successfully herding and farming in Nyoro area – one of them, who came in 2007 with 25 cows, was said to have by that point more than 3,000.

This Arab community is also armed and includes members and ex-members of Sudanese government militias. But there is no evidence that they contributed to the attack that had provoked the displacement of Nyoro’s villagers and they denied doing so. However, the tacit price to pay for the Masalit to be allowed to return was to grant land to those new neighbours, in exchange for protection.

In 2013, when the RSF were formed, 13 Arabs of Nyoro reportedly joined the force – seven of them were later deployed to Yemen (or Saudi Arabia) for six months. When they returned, they mostly invested the money they had made in Yemen in livestock.

After the revolution, while hopes of a more balanced peace grew, Nyoro did not escape new tensions between Masalit and Arabs elsewhere in the state. Nyoro’s Arabs reportedly refrained from taking part in the two attacks on Kirinding camp. However, Nyoro itself was partly attacked and looted, with some houses burnt, during the main violent incidents in West Darfur (December 2019, July 2020 and January 2021), and each attack was more

32. This assessment is based on a visit to Nyoro in February 2020 and on interviews with Nyoro’s residents outside Nyoro. See Jérôme Tubiana, “The revolution was hijacked”, *op. cit.*

33. Jeffrey Gettleman, “A Taste of Hope Sends Refugees Back to Darfur”, *The New York Times*, 26 February 2012.

34. See in particular Eric Reeves, “Darfur and Kadugli (South Kordofan): Obduracy Rewarded”, 7 June 2012.

violent than the last – 24 houses burnt in December 2019, 37 in July 2020, and 137 in January 2021.

On 25 July 2020, the day Misterei was attacked, armed Arabs on horses reportedly targeted Nyoro and, in addition to burning houses, reportedly looted 156 sheep and other belongings. The perpetrators were allegedly some of the attackers involved in the violence in Misterei, passing by Nyoro. The Arabs of Nyoro denied being involved.

In January 2021, as Arab attackers targeted neighbouring Anjime, Nyoro villagers asked for protection from the local RSF unit, composed of two cars. Although the unit commander had reportedly not received orders to protect Nyoro's civilians, on 18 January 2021 he took the initiative to escort the 316 families present in Nyoro with the two cars, on a seven kilometre walk to Misterei. When the first villagers returned to Nyoro three days later, they found, in addition to burnt houses, that the village's clinic had been destroyed and their livestock and food stocks looted. There are suspicions that RSF members took part in the destruction and looting. Five RSF cars from outside Darfur were subsequently deployed to Nyoro, with clearer orders to protect the village alongside the local police.

There are also suspicions that the Arab neighbours with whom local peace had been agreed participated in looting Nyoro while the villagers were absent. It may now become increasingly difficult for neighbouring communities in Nyoro to escape remobilisation along tribal lines, with Arab neighbours of Nyoro possibly joining more hard-line Arab communities, and Nyoro residents – in particular those who sought refuge in Misterei, a stronghold of the Masalit resistance – also possibly joining Masalit self-defence groups. Further attacks on Nyoro are not unlikely.

Camel in Nyoro village, burnt in January 2021, West Darfur, February 2021. © Jérôme Tubiana



1.c. Kirinding, January 2021

In late 2020, further reciprocal murders of Masalit and Arabs took place near Kirinding. They included the killing of two Arab children, which the governor sought to resolve by paying the diya (payment for the blood price). Tensions however remained high. They included hate speech on social media, including a widely circulated video, dated from early January 2021, in which an ex-RSF officer, Musa Abderrahman Hassab-el-Karim, aka “Enjir”, is seen inciting violence against the Masalit. Known to be a trafficker of drugs, weapons and migrants between Sudan, Chad and Libya, Enjir had reportedly been dismissed from the RSF for human trafficking. He was allegedly among the attackers on Kirinding in December 2019.

In January 2021, another Arab attack targeted Kirinding IDP camp. Again, it was triggered by an altercation between Arab and non-Arab individuals. On 15 January 2021, a 45-year-old Arab, Mohamed Ahmad Hamadi Abu Sam was reportedly injured in a market near Kirinding and died in hospital the next day. The alleged perpetrator, Mohamed Ishaq, was a 24-year-old non-Arab, identified by some as Masalit, by others as a member of another non-Arab community. Some alleged that one of the topics of the dispute may have been connected to drugs, since both Mohamed Ishaq and Abu Sam were said to be involved in using and trafficking Tramadol from Chad or distributing it in El-Geneina. The crime however appears to have been largely condemned by the Masalit, as Abu Sam was a popular man among the community, known to have hosted and protected dozens of Masalit IDPs from Kirinding during the December 2019 attack, including by arming his sons. The perpetrator was reportedly arrested by IDPs themselves, two of whom were injured during the action, and promptly handed over to the police. The following day, on 16 January 2021, an angry Arab mob, reportedly including men in RSF uniform, attempted to remove Abu Sam’s corpse from the hospital, provoking an altercation during which an Arab civilian and a policeman were reportedly killed. Then, according to Arab leaders, when Abu Sam’s body was buried, armed Masalit reportedly shot at the gathering with AK-type rifles and RPGs, although it is unclear whether this provoked casualties. Arab leaders claimed that 22 Arabs and 17 Masalit had already been killed in retaliatory violence before armed Arabs, estimated in the several thousands, in cars, on motorbikes, camels, and horses, and armed with machine guns and RPGs, attacked Kirinding camp again, on 16 January 2021.³⁵

Once again there were allegations that RSF members took part in the attack, but mostly in plain clothes rather than uniform. RSF also allegedly supplied weapons and ammunition to the attackers. The attackers appeared to include armed Arabs who had come from various, sometimes remote locations, including Central Darfur and North Darfur, as well as Chad – around 20 attackers killed in the violence were said to have later been buried in Chad.

As in Misterei, Masalit self-defence militias fought back, including with weapons such as RPGs and machine guns. They also shelled some Arab neighbourhoods in El-Geneina.

On the non-Arab side, 109 to 163 mostly Masalit civilians, including nine women and twelve children, were reportedly killed, 66 to 200 injured, and twelve abducted and considered disappeared. By February 2021, no case of sexual violence had been reported, although five cases were suspected, including rapes of women who had attempted to return to the camp after the attack, to recover food stocks or belongings.

The Arab side put their own casualties at 48 deaths and 73 to 100 injured, but those figures may only include the casualties from 16 and 17 January 2021, and not those wounded who later died in hospital.

35. Interviews with Arab traditional and political leaders from West Darfur, February 2021.

Many Arabs and non-Arabs claim the real figures for Arab deaths were much higher, between 200 and 400. Estimations based on mourning messages on WhatsApp groups put the figures between 184 and 224. Some Arabs mentioned 200 members of their communities as “missing”.

Again, the Masalit considered it an unprecedented victory. Again, intervention by government forces was late and ambiguous. Governor Mohamed Abdallah Al-Doma claimed that government forces were sent to Kirinding as early as 16 January 2021, but that “the fierceness of the fighting compelled most to retreat and line on the main road”.³⁶ Some Masalit informants said that SAF and RSF were mostly observing, and that, only a few SAF cars and police troops played a role in gradually stopping the attack. However, RSF, in particular from Zalingei in Central Darfur, were deployed on 17 January 2021, reportedly on the orders of Sovereign Council chairman General Abdelfattah al-Burhan.³⁷ RSF Central Darfur commander, Brigadier General Ali Yaqub, indicated that, with the governor’s permission, his forces shot in the air, provoking the retreat of the belligerents from both sides.³⁸ RSF intervened notably in El-Geneina’s Hay Jebel neighbourhood, and prevented the Arabs from attacking another IDP camp, Abu Zer, nicknamed Hodeida by the Arabs, in reference to the Yemeni town where heavy fighting took place between the Huthi rebels and the Saudi-led coalition opposing them, including Darfur Arab members of the RSF. Some Arabs criticised the RSF for that action and for not fighting on their side. The fighting reportedly stopped in the afternoon of 18 January 2021.

Despite the reaction of Masalit self-defence militias, Kirinding camp was looted and burnt. The 50,000 camp residents were displaced, most for the second time in about a year, to El-Geneina town at the beginning of the attack – in particular women, children and elders, while men stayed longer to defend the camp. After that, residents settled in 84 “gathering sites”, including various government buildings and schools. Eighteen villages around West Darfur, including return villages where IDPs and refugees had been resettled for several years, were also attacked, looted and burnt.³⁹ Services such as clinics and schools were targeted. In total, about 100,000 people were reportedly displaced, including some “returnees” who once again took refuge in Chad.⁴⁰ The humanitarian response was considered slow and insufficient, notably due to the fatigue of relief organisations in relation to the protracted Darfur conflict, in comparison to other, fresher crises.⁴¹

36. Interview with West Darfur Governor Mohamed Abdallah Al-Doma, El-Geneina, February 2021. In June 2021, Governor Al-Doma was replaced by Masalit kinsman Khamis Abdallah Abbakar, a leader of one of the rebel group signatories to the Juba Peace Agreement.

37. Interview with Brigadier General Ali Yaqub, RSF Central Darfur commander, Zalingei, February 2021.

38. Interview with Brigadier General Ali Yaqub, RSF Central Darfur commander, Zalingei, February 2021.

39. Ahmed Ishag Yagoub, West Darfur state humanitarian advisor, “SOS Call”, 25 January 2021.

40. *Ibid.* See UNOCHA, “SUDAN: Conflict - Flash Update #18 West Darfur,” 20 April 2021, <https://reports.unocha.org/en/country/sudan/> and <https://www.internal-displacement.org/media-centres/burst-of-violence-in-darfur-triggers-sudans-highest-number-of-conflict-displacements>.

41. See Philip Kleinfeld, “From global cause to forgotten crisis: A reporter’s diary from Darfur,” *The New Humanitarian*, 15 June 2021.



After a series of attacks by armed Arab pastoralists, Masalit villagers burnt the grass in order to deter the pastoralists from coming to their area, but this also contributed to tensions. Misterei locality, West Darfur, February 2021. © Jérôme Tubiana

1.d. The “sit-in of the Arab tribes”

After the attack, possibly because of their unusual losses and encouraged by Arab community members attempting to de-escalate the violence, a “sit-in of the Arab tribes” was organised. It notably blocked two main roads giving access to El-Geneina, so that the town was largely isolated for about two weeks. The sit-in’s demands included in particular the dismantlement of the IDP camps around El-Geneina – ironically since earlier Arab attacks had pushed Masalit villagers to seek refuge around the town; the dismissal of the Masalit governor, accused of being biased in favour of his tribe, and his replacement by a governor belonging neither to the Masalit nor the Arab communities; and the prosecution of members of police and other forces who took part in the fighting.

It was also suggested that police and SAF troops, largely composed of non-Arabs, including Masalit, should be replaced by RSF, known to be recruited mostly among Darfur Arabs. RSF members were reportedly present at the sit-in and supported it with food supplies. RSF officers also reportedly supported the sit-in on social media.

The Masalit were shocked by some of those demands and felt that, by organising a sit-in for the first time, the Arabs were hijacking what until then had been a trademark tactic of non-Arab

civilians, including IDPs, fighting against the Bashir regime. Masalit activists denounced the sit-in for being tribal and for failing to condemn the attack on Kirinding.⁴² Arab intellectuals supporting the principle of the sit-in recognised that some of the demands were “tribal, extreme and violent”, but argued that, in a context where hardliners were willing to escalate the fighting, a “non-violent, peaceful” sit-in represented progress.⁴³ After two weeks, a government delegation from Khartoum, including Abderrahim Hamdan Daglo, Hemetti’s brother and RSF deputy commander, obtained the peaceful dispersal of the sit-in. Arab protesters claimed that the delegation had agreed to satisfy all their demands within a year, but it did not seem that the transitional authorities were willing or able to do so.⁴⁴ (In June 2021, Governor Al-Doma, who had become a main target of the Arab side, was replaced by Khamis Abdallah Abbakar, leader of one of the rebel group signatories to the Juba Peace Agreement. However, Abbakar is also a Masalit, thus not fully satisfying the Arab demands). The possibility of new violence in West Darfur thus remained very high.

1.e. El-Geneina, April 2021

On 3 April 2021, fighting between Arabs and Masalit resumed in El-Geneina. It seems that, this time, it began with the murder of two Masalit IDPs by Arabs, allegedly RSF members, in Hay Jebel neighbourhood, after which RSF officers reportedly tried, without success, to obtain the surrender of the alleged perpetrators.⁴⁵ It was followed by a reaction by Masalit self-defence militias. The fighting allegedly involved RSF members and Chadian nationals on the side of the Arabs, and on the other side, Masalit members of rebel movements who signed the Juba Peace Agreement in October 2020. The West Darfur physicians’ committee announced that 144 people, including four policemen, were killed, and 233 injured, in one week.⁴⁶ These figures reportedly only included non-Arabs, since Arab victims, including civilians and RSF members, were reportedly evacuated by an RSF flight to health facilities outside West Darfur.⁴⁷ The committee also condemned attacks on health facilities and medical personnel. Two IDP camps and four gathering sites were partially burnt, and over 100,000 people displaced, including 2,000 to Chad.⁴⁸

It was reported that government forces were unable to stop the violence for five days (until 8 April 2021), with state authorities asking in vain for the central government to send reinforcements, until joint SAF and CRP (Central Reserve Police) forces from Central and South Darfur, with 2,000 men, were deployed.⁴⁹ The violence then decreased, but reportedly mainly not as a result of the intervention of government forces, although police forces established many checkpoints and shot in the air to discourage further fighting.

42. Interviews with Masalit resistance committees, El-Geneina, February 2021.

43. Interviews with Arab intellectuals, youths and SRAC leaders and members, El-Geneina and Khartoum, February 2021.

44. Interview with Arab youths, El-Geneina, February 2021.

45. “Human Rights Assessment report on the incident of attack on El Jebel Neighborhoods in El Geneina by armed Arab men and RSF” document seen by FIDH.

46. See <https://www.democratsudan.com/144-%d9%82%d8%aa%d9%8a%d9%84%d8%a7%d9%8b-%d9%88232-%d8%ac%d8%b1%d9%8a%d8%ad%d8%a7%d9%8b/>.

47. Human Rights Assessment Report, *op. cit.*

48. *Sudan Tribune*, “Death toll in West Darfur tribal violence rises to 125”, 9 April 2021.

49. *Sudan Tribune*, “UN urges Sudan to hold accountable responsible for W. Darfur tribal violence”, 10 April 2021; see UNOCHA, “SUDAN: Conflict - Flash Update #18,” *op. cit.*

1.f. Other incidents, May and July 2021

Other incidents took place in May and July 2021 in more remote locations. In May 2021, Arab gunmen killed a Fur tailor in Foro Baranga market, south of West Darfur. This triggered a fight between the two communities, during which eight men (five Fur and three Arabs) were killed.⁵⁰ Arab gunmen reportedly attacked the hospital to kill wounded Fur, while Fur protesters burnt government buildings.

In July 2021, attacks on five non-Arab villages in Sirba locality, north of El-Geneina, resulted in more than 20 deaths; and eleven were killed in Azerni area, west of El-Geneina.⁵¹

1.g. The government's role in question

The role of government forces in the post-Bashir violence in West Darfur appears ambiguous. The various government forces seem to have failed to react or tended to react very late, their members repeatedly stating that they “did not receive orders” to do so. In addition, members of various government forces took part in the fighting on different sides, along ethnic lines. The RSF, in West Darfur as elsewhere in Sudan, mostly recruit among Arab communities, not least the Rizeigat Mahariya and Mahamid from West Darfur. While non-Arabs, including former rebels, have joined the RSF, and been encouraged to do so by former rebel leaders believing it could prevent the RSF attacking non-Arab communities, only a few dozen Masalit former rebels and policemen, mostly from South Darfur, were integrated into the RSF but they were not deployed in West Darfur. In contrast, the SAF and the police, including the paramilitary Central Reserve Police (CRP), mostly recruit among non-Arabs. Many Masalit policemen from West Darfur are deployed locally, and Masalit are also present in the SAF, although mostly in lower ranks.⁵²

As mentioned above, RSF members and officers reportedly took part in the December 2019 attack on Kirinding, and are also accused of having participated, more discreetly, without uniforms, in subsequent attacks. An investigation reportedly found that at least 17 RSF members took part in the December 2019 attack, including then West Darfur state RSF commander Musa “Ambello”. A member of the Mahariya Arab tribe, with Chadian connections, Ambello was first known as a road bandit in West Darfur, before being recruited in 2003 into the Border Guard, the first paramilitary body into which the *janjawid* militias were integrated. Between 2004 and 2010, he played a key role as intermediary between Chadian Arab rebel movements (in particular Mahamat Nur Abdelkarim’s United Front for Change-FUC), based in Darfur, and Sudan’s NISS supporting them. In 2006, he also briefly joined the Chadian government alongside Mahamat Nur. He was subsequently appointed an omda (mid-level traditional leader) in West Darfur and commanded the personal security of two successive governors of West Darfur, before joining the RSF when it was formed in 2013. In the last years of the Bashir regime he was involved, along with other West Darfur Arab traditional and political leaders with Chadian connections, in recruiting Chadian Arab youths into the RSF, particularly with the aim of sending them to Yemen.

Six RSF members and some combatants found with Border Guard IDs were reportedly arrested for taking part in the Kirinding attack. However, no officer was held accountable. As complaints against

50. *Sudan Tribune*, “Eight people killed in tribal attacks in West Darfur locality,” 31 May 2021.

51. Radio Dabanga, “West Darfur Doctors Committee: 12 dead and 15 wounded in latest violence in Kereinik and Jebel Moon,” 8 July 2021, <https://www.dabangasudan.org/en/all-news/article/west-darfur-doctors-committee-12-dead-and-15-wounded-in-latest-violence-in-kereinik-and-jebel-moon>.

52. Interview with West Darfur Governor Mohamed Abdallah Al-Doma, El-Geneina, February 2021. See *Report of the Panel of Experts*, *op. cit.*, p. 33.

Ambello increased, he was given leave and then transferred from West Darfur to Khartoum, where he was promoted from lieutenant-colonel to colonel. In the second half of 2020, he also reportedly participated in human rights training delivered by UNAMID. By October 2021, he was heading the RSF's committee for tribal reconciliation, involved in mediation efforts all over Sudan.

According to Arab leaders, Ambello had deployed forces in Kirinding at the request of the then (military) governor.⁵³ There is however no evidence that he or any other RSF member who reportedly fought the Masalit in Kirinding had orders from the governor or from Hemetti in Khartoum to do so. An RSF adviser said that RSF members who may have taken part in the Kirinding attack did so without orders, and that if their participation is proven, they will be imprisoned.⁵⁴ Indeed, Hemetti reportedly ordered RSF to deploy to stop the fighting, and as mentioned above, RSF (from Central Darfur) took part in joint forces which reportedly contributed to ending the violence.

The attackers also targeted regular forces, including both SAF and police. On 31 December 2019, shooting at an SAF position reportedly resulted in a reaction by the SAF, which blocked some attackers. Similarly, an attempt to attack the police in El-Geneina led police forces to shoot at the attackers, killing between five and six Arab civilians.

Individual Masalit SAF and police members reportedly joined the fighting in West Darfur on their own initiative, including sometimes when their houses (some were living in Kirinding) were attacked by armed Arabs. Four Masalit policemen and two non-Arab SAF soldiers were reportedly killed during the December 2019 attack, and three Masalit policemen were arrested afterwards. About ten Masalit policemen, as well as five Masalit SAF soldiers, were reportedly killed during the January 2021 attack.

Misterei policemen also fought during the 18 July 2020 attack on Misterei. According to Arab leaders, they stopped the Arab *faza'* before Masalit civilians grabbed weapons from the police store.⁵⁵ After the attack, West Darfur authorities reportedly deployed seven police vehicles to protect the farming season. Those reportedly refused to intervene when Misterei was attacked again on 25 July 2020, saying it was not their duty. However, when the attackers targeted the police station, killing two Masalit policemen and capturing six rifles, the police reportedly fought back and killed several of the attackers. In total, six policemen, four of them Masalit, were reportedly killed during the attack. Similarly, the attackers targeted the SAF, killing seven soldiers and unsuccessfully attempting to seize ammunition. As mentioned above, the Masalit self-defence groups reportedly compelled the SAF to fight, and borrowed weapons from them, which they returned after the fighting.

Other forces were present in Misterei area, including RSF and a unit of the Chad-Sudan Border Force: none of them intervened during the seven to ten hours of fighting, saying they had not received orders.⁵⁶ Only from the evening of 25 July 2020 were joint forces (mostly RSF as well as SAF and police) from the state as well as Central and South Darfur reportedly deployed to protect the town from further violence and secure the farming season. In total, at least 5,000 joint forces were reportedly deployed across West Darfur in the aftermath of the 25 July 2020 attack.⁵⁷ Misterei residents criticise them for not providing genuine protection but merely separating the two sides, thus virtually preventing the Masalit from leaving Misterei.⁵⁸

53. Interviews with Arab traditional leaders from West Darfur, February 2021.

54. Interview with RSF adviser, Khartoum, February 2021.

55. Interviews with Arab traditional leaders from West Darfur, February 2021.

56. *Report of the Panel of Experts, op. cit.*, p. 70.

57. *Ibid.*, p. 33.

58. Interview with Masalit witnesses, Misterei, February 2021.

At the time of the Misterei attack, Ambello had been replaced as West Darfur RSF commander, by Brigadier General Idris Hasan, formerly the West Darfur Border Guard's coordinator under Musa Hilal - both belonging to the Mahamid Arab tribe. Various Masalit informants acknowledged Hasan played a less damaging role than that played by Ambello, preventing his forces from getting involved in tribal fighting. He reportedly did not play a role in the attack on Misterei, and while it was happening, prevented his forces from getting involved in Arab-Masalit fighting in his own El-Geneina neighbourhood of Hay Jebel.

During the January 2021 attack on Kirinding, the RSF were accused of providing ammunition to the attackers. Despite this allegation, some Arabs blamed Hasan and the RSF for not intervening on their side, and for preventing them from attacking Abu Zer IDP camp. That was reportedly carried out by 200 RSF vehicles, notably from Zalingei, who were deployed on 17 January 2021. On 18 January 2021, additional RSF, as well as SAF troops, came from Nyala. According to an RSF adviser, other forces based in Khartoum, most of them not originating from Darfur with the aim of ensuring their neutrality, were deployed in El-Geneina a week later.⁵⁹ Some RSF were reportedly attacked by Arabs and four of them killed. They fought back, killing several of the attackers. According to a local activist from a tribe not involved in the conflict, since then, "RSF has been playing a main role patrolling in and around town and protecting government institutions".⁶⁰

Maybe for these reasons, this time, unusually, some Arabs appeared to be more critical of RSF than of SAF. This may be due to the fact that the West Darfur SAF 15th division commander, Major General al-Nur Bashir al-Nur, reportedly refused to intervene, saying he had no orders from Khartoum to do so. Governor Al-Doma reportedly asked the SAF commander to stop the attack but once again the officer switched off his phone and did not attend the emergency meeting of the state's security committee. Later he reportedly addressed the "sit-in of the Arab tribes", supporting the protesters' demands.

Despite this, fighting took place between Arab attackers and SAF, compelling SAF to respond. Armed Arabs attacked both SAF and CRP forces, killing about 20 SAF soldiers and a dozen policemen, including CRP members. Both fought back and killed several Arab combatants, thus contributing, although at a late stage, to stopping the attack. Regular police forces also reportedly killed attackers.

At the time of the second attack on Kirinding, SAF, RSF, police and Chad-Sudan border forces were more successful in reportedly preventing another attack on Misterei, where they had been deployed as a joint force since the July 2020 attack. Since the second Kirinding attack, they were reportedly reinforced by 17 RSF cars. In other locations, the Chad-Sudan force consistently refused to intervene, saying it was not their mandate.

In April 2021, RSF members were allegedly involved in the initial incident that triggered the fighting in El-Geneina, participating in the fighting itself, providing support to armed Arab civilians and evacuating the wounded on the Arab side.⁶¹ Joint SAF and police forces were initially deployed on 5 April 2021 but appeared to protect only government buildings and markets. In the following days, joint, SAF, RSF and police forces intervened more actively, although state authorities complained the Defence and Interior ministries had long been unresponsive to their calls.⁶²

59. Interview with RSF adviser, Khartoum, February 2021.

60. Interview with activist, El-Geneina, February 2021.

61. Human Rights Assessment Report, *op. cit.*

62. *Sudan Tribune*, "Sudan to deploy joint force in Darfur," 11 April 2021.



Revolutionary murals painted during the sit-in in Nyertiti, Central Darfur, in mid-2020. © Jérôme Tubiana

1.h. Involvement from outside Darfur

The role of the various government forces has been ambiguous, partly because of their divisions, and the divisions within and between the different poles of power within the transition.

Whether they had backed Bashir's ouster or not, many SAF generals resented the rise of Hemetti, once a simple militia leader from Darfur. Former regime loyalists, often Islamists, some still present in SAF and GIS, also considered Hemetti a traitor. Many military leaders and civilian politicians, whether supporters of the former regime or opposed to it, hail from communities in Sudan's "centre" along the Nile Valley. This "riverine elite" sees Hemetti as an uneducated war chief from Darfur, with Chadian origins, and consequently a threat to their historic hegemony. In the face of that animosity, Hemetti attempted to seek allies among the non-Arab rebels he once fought, through peace talks he initiated with them, which led to the signature of the Juba Peace Agreement in October 2020.

Tensions reportedly increased in June 2021, including between al-Burhan and Hemetti, the latter rejecting requests to integrate his RSF into the SAF, and suggesting he was the target of political

machinations by former regime loyalists.⁶³ In reaction, Prime Minister Hamdok warned that divisions between security forces, exploited by former regime loyalists, may lead to chaos, advocating comprehensive security sector reform. In late June 2021, about 200 former regime loyalists were reportedly arrested for plotting against the current government.⁶⁴ In September 2021, again, a coup attempt was reportedly thwarted, and up to 40 military officers were detained. In retrospect, the theory that this may have been a test for the “real” coup which took place the next month, in October 2021, may have been accurate. By mid-2021, unusually consensual demands, by the SAF, Hamdok, the FFC, and rebels (both signatories and non-signatories to the Juba agreement), that the RSF integrate into SAF, isolated Hemetti. Yet he succeeded in engineering a rapprochement with both the SAF and some of the Darfur rebels (JEM and SLA-MM) against the FFC, leading to the coup in October 2021. The civilian-military rupture then overshadowed other divisions, but those are still present and likely to resurface.

The persisting divides between the centre and peripheries are often seen as a main cause behind the upsurge in violent community conflicts in Sudan since Bashir’s fall. Many, including Hemetti and his supporters, believe that recent conflicts all over Sudan are engineered by Hemetti’s enemies from the central states, chiefly former regime loyalists, notably within SAF, with the aim of obliging Hemetti to transfer RSF deployed in Khartoum to remote war zones. Other possible objectives could be to undermine his strategy of uniting the peripheries and to blight the implementation of the Juba Peace Agreement.

This theory does not however appear to be backed by strong evidence in the case of West Darfur. Arab allegations that SAF or NISS have been supporting or arming the Masalit are not corroborated by evidence. And widespread allegations of manipulation by former regime loyalists are not necessarily supported by the fact that the former regime’s support base in West Darfur was mostly among Arab communities.

Some of the main Arab tribal, political, and military leaders, who played a key role in mobilising or leading the *janjawid* militias, are still influential despite the revolution. They appear involved in fuelling post-Bashir tensions: some are said to have mobilised kinsmen and collected funds to procure weapons, including among Chadian kinsmen, prior to the Kirinding and Misterei attacks. They are also said to have contributed to organising the “sit-in of the Arab tribes”, although the youth, who played a key role in that mobilisation, is suspicious of their former alignment with the Bashir regime. After the 2019 revolution, the old leaders tended to present their former alliance with Bashir as opportunistic and claimed that their main agenda was, and had always been, tribal. This was along the same lines as Hemetti’s own discourse and allowed them to present themselves as his supporters in the hope of continuing to benefit from backing in Khartoum. Despite some West Darfur Arab tribes being opposed to Hemetti (and to the peace agreement he initiated) and closer to his rival Musa Hilal, Arab tribal and political divisions were erased by a strong level of cohesion during the January 2021 attacks against the Masalit, and, to a lesser extent, the subsequent sit-in. Hence, the role of Arab communities in the violence in West Darfur, while it exposes Hemetti’s weakness in terms of controlling his support base and implementing a peace agenda, is not necessarily aimed at undermining him. On the contrary, his participation in the October 2021 coup, betraying his promise to protect the revolution, means Darfur Arabs, including former regime loyalists, will feel even more empowered, which may precipitate further violence in Darfur.

63. *Sudan Tribune*, “Hemetti rejects integration of his RSF militiamen in Sudanese army,” 7 June 2021.

64. Radio Dabanga, “Dozens arrested in pre-dawn Khartoum swoop on ‘NCP plotters,’” 30 June 2021. <https://www.dabangasudan.org/en/all-news/article/dozens-arrested-in-pre-dawn-swoop-on-ncp-plotters>.

A conflict over land?

Other external factors may have fuelled local tensions since Bashir's fall and continue to do so. Among them are tensions over the intermingled issues of land and traditional leadership (known in Sudan as "native administration"), which are particularly acute in West Darfur. In pre-colonial times, what is now West Darfur state was mostly part of the sultanate of Dar Masalit, in which the (still existing) Masalit sultan and Masalit customary chiefs under him administered all communities, including Arabs. During the Bashir era, Arab communities, including newcomers from Chad, used their political and military alliances with the regime to challenge the traditional administrative and land tenure systems. Some of their leaders were then appointed *amir* ("princes") with allocated territories, largely escaping the Masalit sultanate's control.⁶⁵ Their crucial role in forming the regime's auxiliary militias also allowed them to occupy territories, from which the Masalit residents were largely displaced, either to IDP camps within West Darfur or to refugee camps in Chad, as well as in the Central African Republic and South Sudan. Since 2003, Masalit and other non-Arab residents, IDPs or returnees willing to farm land, have often had to negotiate with Arab militias to secure access to their own land, and to accept unbalanced conditions such as sharing their land or their harvest. Some of those informal agreements continued after Bashir's fall, but non-Arabs are often no longer willing to implement them and have been trying to regain access to more land. This could be one of the reasons behind new attacks on farmers.⁶⁶ It also seems, that returnees were particularly targeted by attacks following Bashir's fall in 2019.

The rise of Hemetti, an Arab militia leader with strong tribal and family connections among West Darfur Arabs, especially in his own Mahariya tribe, may give Arab communities the confidence to further assert power and consolidate the land control they obtained, both politically and militarily, during Bashir's regime. However, Bashir's fall has also increased uncertainty about the future among Arab leaders particularly associated with the former regime. Furthermore, the Juba Agreement may give Arabs the impression that they are being abandoned by the new authorities, including by Hemetti himself, as the main initiator of the peace talks. Indeed, the agreement unambiguously states that the displaced should be able to retrieve their original land rights and that land occupied during the war should be emptied of its occupiers; it also clearly reasserts traditional land rights and the traditional land tenure system. Such provisions have led to some Arab communities to reject the peace agreement in order to preserve their gains from the conflicts;⁶⁷ while Masalit and other non-Arab communities have been encouraged to reassert their land rights. Indeed, during the "sit-in of the Arab tribes", the protesters' spokesman Mohamed Zein reportedly criticised the Juba Peace Agreement for not representing the interests of the Arab tribes.⁶⁸

65. Jérôme Tubiana, Victor Tanner, and Musa Adam Abdul-Jalil, *Traditional Authorities' Peacemaking Role in Darfur*, USIP (United States Institute of Peace), 2012.

66. *Report of the Panel of Experts, op. cit.*, p. 31.

67. *Ibid.*, p. 31.

68. Interview with Arab youths, El-Geneina, February 2021.



A Masalit self-defence fighter making protective charms, West Darfur, February 2021. © Jérôme Tubiana

1.i. Old and new players

Adding to the uncertainty in the West Darfur situation is the involvement of both old and new players, competing along both tribal and political lines. On the Masalit side, the main traditional and political leaders were also aligned with the Bashir regime, but since Bashir's fall they seemed weakened to a far greater extent than their Arab counterparts, having been side-lined by the Masalit youth, resistance committees, IDPs and the wider population. Arab leaders indicate that this divide makes it difficult for them to solve the problems through "traditional" meetings between chiefs: "since the revolution, the Masalit say they don't recognise the sultan and their community leaders but only the resistance committees."⁶⁹

Indeed, the Masalit youth and the IDPs played a key role in the resistance committees which organised revolutionary protests and sit-ins in West Darfur, echoing larger protests in Khartoum along with local demands for peace, security and justice. As mentioned above, those demands, and the post-Bashir

69. Interviews with Arab traditional leaders from West Darfur, February 2021.

context, including both greater freedom and the inability of the new authorities to protect the Masalit, also encouraged Masalit youth and IDPs to resurrect their traditional self-defence mechanisms and remobilise self-defence groups, mixing both seasoned traditional war leaders and younger combatants. They were able to procure weapons, notably through money collected from the Masalit diaspora in Europe and North America. Arms, including RPGs and machine guns, were reportedly bought from Arab militias, as well as in Chad.⁷⁰ Prices for AK-type rifles and RPGs reportedly rose five to six times between the first and second attack on Kirinding.⁷¹ Masalit rebels fighting in Libya also reportedly returned to Sudan with weapons in late 2020.

Masalit self-defence militias fought back during each of the four main Arab attacks since December 2019, and with the government's failure to intervene quickly and decisively enough, their involvement gradually increased, allowing them to repel attackers. They even reportedly rescued the CRP when the latter's position in Kirinding was attacked in January 2021.

That self-defence movement appears very autonomous, although ideological and personal connections with both the revolutionary movement and the rebel movements do exist. Some individuals are members of both resistance committees and self-defence groups, but there mostly appears to be a clear separation between armed activities and non-violent political struggle. As for the rebel movements, their nucleus was made up of Masalit, Fur and Zaghawa self-defence groups, which had had considerable success in defending non-Arab communities in the 1990s.⁷² Notwithstanding the fact that some of their current members were formerly members of rebel movements, many within the self-defence groups appear disillusioned by the rebels, because of the lack of representation of the Masalit among their leadership, and the choice of many groups, in the name of their national agenda, to wage war against the government often away from Darfur, rather than to defend the non-Arab communities.⁷³

Arabs however accuse the Masalit self-defence groups of being supported and armed by rebel movements. They blame in particular the faction of the Sudan People Liberation Movement-North (SPLM-N) led by Abdelaziz al-Hilu, currently the main rebel movement in Sudan, both in terms of numbers of troops and area of control. Al-Hilu controls a large part of the Nuba Mountains of South Kordofan, and recruits mostly among the local non-Arab Nuba communities. However, al-Hilu is himself from a Masalit family originally from West Darfur, and as a result is particularly popular among the Masalit revolutionary youth and IDPs. Since the resumption of the war in South Kordofan in 2011, several hundred Masalit from West Darfur and other parts of Sudan reportedly joined SPLM-N in the Nuba Mountains and are said to be particularly trusted by al-Hilu. However, the possible agenda of those Masalit to be deployed in West Darfur, either to open a new front there or to defend their communities, in particular since the December 2019 Kirinding attack, seems to have been unsuccessful to date. Al-Hilu appears opposed to that option, notably because of SPLM-N's former failures to fight within Darfur. Some however reportedly left al-Hilu, to join rebel movements which, unlike the SPLM-N, signed the Juba Peace Agreement. Al-Hilu's current agenda, pushing for the self-determination of the "two areas" of South Kordofan and Blue Nile, which makes him opposed to the Juba Peace Agreement signed by a rival SPLM-N faction, is also likely to prevent him from sending troops to Darfur. The situation has also triggered a mixed response among the Masalit, divided between those who feel al-Hilu is only interested in the issue of self-determination of the two areas, and others who feel that his agenda could also be extended to West Darfur.

70. Interviews with self-defence groups, El-Geneina and Misterei, February 2021. See *Report of the Panel of Experts, op. cit.*, p. 67.

71. The continuous loss of value of the Sudanese pound also likely contributed to higher weapon prices.

72. Interviews with Sudan Alliance chairman Khamis Abdallah Abbakar, Khartoum, and with self-defence groups, El-Geneina and Misterei, February 2021.

73. Interviews with self-defence groups, El-Geneina and Misterei, February 2021.

In March 2020, a small Masalit rebellion was formed in West Darfur under the command of a man known as Abu Johara. It was quickly defeated by RSF forces or local armed Arabs.⁷⁴ Some of those detained were allegedly members or former members of SPLM-N in South Kordofan.

A few (non-Masalit) loosely controlled members of signatory rebel movements reportedly joined the Masalit self-defence during the attack on Kirinding in January 2021. By early 2021, some self-defence fighters were also reportedly planning to join or re-join rebel movements who signed the Juba Peace Agreement, in order both to acquire weapons and to evade a possible civilian disarmament campaign. Regardless of the agreement's implementation, Masalit members of signatory rebel movements are hoping to participate in the defence of their community in case of future attacks. With the same aim of protecting the Masalit community, some were also hoping to integrate SAF.

2. Central Darfur (and greater Jebel Marra)⁷⁵

2.a. Armed group dynamics

During the last years of the Bashir regime, Central Darfur could be considered the most violent of Darfur's five states. This is mostly because the Jebel Marra mountains, which are largely located in Central Darfur, have remained the only rebel-controlled area within Darfur. Furthermore, they are controlled by the faction of the Sudan Liberation Army led by Abdelwahid Mohamed Ahmed al-Nur (SLA-AW), which has consistently rejected peace talks and peace agreements since 2006, including the latest Juba Peace Agreement.

As a result, the "non-signatory" faction, despite a declared ceasefire with the government, could still suffer from attacks by government forces, or be involved in fighting them, including reportedly in recent years.

SLA-AW has also long-established relations and non-aggression pacts with Arab *janjawid* militias all around Jebel Marra, many of which were increasingly opposed to the Bashir regime. During the last years of Bashir's rule, the historical paramount chief of the *janjawid* militias, Musa Hilal, gradually turned against the regime, increasingly openly, forming his own political-military movement under the name of the Sudanese Revolutionary Awakening Council (SRAC, or *Sawa* in Arabic), until his arrest by Hemetti's RSF in 2017. Since then, some SRAC combatants and Hilal supporters (about 150 men according to the UN) based themselves in the Shawfugo and Buri area of western Jebel Marra, allied with neighbouring SLA-AW forces, and obtained access to SLA-AW-controlled Jebel Marra highlands.⁷⁶ Both forces occasionally joined to attack government forces, including RSF and SAF – killing about 20 members of the latter in Kutrum in June 2020.⁷⁷ This notably included raids to loot livestock belonging to RSF commanders or ex-members. There are also reports that SAF Military Intelligence, in its rivalry with Hemetti, provided weapons to SRAC, although this appears to have been limited to a few dozen AK-type rifles.

74. *Report of the Panel of Experts, op. cit.*, p. 32.

75. Incidents which took place in the part of Jebel Marra administratively located in North Darfur are mentioned in this section.

76. Interview with SRAC members, Central Darfur, February 2021; *Report of the Panel of Experts, op. cit.*, p. 16.

77. *Report of the Panel of Experts, op. cit.*, p. 16.



Revolutionary murals painted during the sit-in in Nyertiti, Central Darfur, in mid-2020. © Jérôme Tubiana

Relations between SLA-AW and SRAC forces reportedly swiftly cooled, with the former requesting the latter to evacuate Jebel Marra rebel-controlled areas, which was done without violence in mid-2020. This may have been under pressure from Hemetti. While publicly rejecting talks with Hemetti, SLA-AW also established relations with him when he was a militia leader based in south-eastern Jebel Marra, long before he became the head of the RSF. SLA-AW has been recently successfully exploiting goldmines in that area and therefore requires peaceful relations with local RSF to be able to sell gold outside Jebel Marra.⁷⁸

Furthermore, SLA-AW has continuously suffered from defections by commanders tired of their leader's intransigence, but also sometimes encouraged by the government, promising them positions, money and weapons. Such defections have consistently triggered deadly fighting between rival rebel factions. SLA-AW has always been able to prevent the dissidents from controlling territory in Jebel Marra, expelling them from the rebel area, but not without casualties among both rebels and the civilian population. The latest split, between Abdelwahid loyalists and dissidents under commanders Mubarak Aldouk and Zonun Abdeschafi, both of the latter lacking a solid area of control, provoked fighting since May 2020 between the two factions, murders of dissident commanders as well as displacement of 20,000 civilians from the rebel area of Jebel Marra to government-controlled territory

78. Interviews with SRAC leaders and members, Central Darfur and Khartoum, February 2021. On gold, see *Report of the Panel of Experts, op. cit.*, p. 3.

in Golo area.⁷⁹ Rebel divisions also regularly provoked violence within the main camps inhabited by IDPs from the Fur community, such as Kalma near Nyala or Hamidiya near Zalingei, most remaining loyal to SLA-AW.

Dissidents are reportedly supported by the RSF and may be integrated into them.⁸⁰ Former SLA-AW members often formed new government-affiliated militias and were involved in attacks against their former comrades in Jebel Marra, as well as against Fur civilians considered as pro-SLA-AW, sometimes alongside Arab militias. In January 2021, a dozen Fur villages in eastern Jebel Marra (administratively part of North Darfur) were reportedly attacked by the SLA-AW splinter faction under Zonun Abdeshafi alongside Arab militias, killing at least eleven and displacing at least 4,000.⁸¹ Similarly, in July 2021, fighting took place between SLA-AW and another earlier splinter faction under Saddiq al-Fukka, who allegedly attacked Sortoni IDP camp in northern Jebel Marra (administratively part of North Darfur), provoking at least 17 deaths.⁸² In 2020, 1,600 SLA-AW defectors also reportedly joined SAF.⁸³

2.b. Attacks against Fur civilians

Repeated raids on Arab livestock by armed groups triggered retaliatory violence against Fur civilians living in government areas – regardless of whether the perpetrators were SLA-AW Fur rebels or SRAC Arab members, or both operating jointly, as mentioned above.

In August 2019, SRAC members reportedly looted Arab cows and brought them to SLA-AW in Jebel Marra. In retaliation, eleven Fur civilians from Jebel Marra were abducted by Arabs, until a collective ransom of SDG 700,000 (USD 3,500)⁸⁴ was paid. Two similar looting incidents took place in late 2019 and June 2020, leading Arab retaliatory *faza'* to follow perpetrators' footprints towards Jebel Marra and to target Fur farmers and Fur civilians bringing crops from Jebel Marra to Nyertiti markets, killing seven of them.

Those incidents, which contributed to a deterioration of the security situation, were among the reasons behind the organisation of a sit-in by Nyertiti's mostly Fur residents, in June and July 2020, during the same period as similar sit-ins in Misterei and other parts of Darfur and the rest of Sudan. Another reason for the sit-in was the police repression against a peaceful protest in Zalingei, during which the police reportedly shot dead two protesters in May 2020.

Among the Nyertiti sit-in's main demands were the arrests of perpetrators of violence, compensation to victims, the disarmament of Arab militias, the protection of the farmers against militia attacks, the return of the IDPs to their original land, the evacuation of Arabs and Fellata who had settled on Fur land in Mortajello area since 2007-2008, the protection of that area against threats of attacks by those settlers, and a ban on motorbikes and turbans (both frequently used during recent attacks).⁸⁵ That sit-in was more successful than others, notably because it attracted participants from other parts of Darfur and the rest of Sudan, likely contributing to deterring possible attacks. "That was when Nyertiti entered

79. Interviews with Central Darfur governor Adeb Yusif, Zalingei, and with UNAMID personnel, February 2021; *Report of the Panel of Experts*, *op. cit.*, p. 2.

80. *Report of the Panel of Experts*, *op. cit.*, p. 15.

81. See <https://www.thenewhumanitarian.org/news-feature/2021/4/21/inside-darfurs-rebel-held-mountains> and https://www.lemonde.fr/afrique/article/2021/03/08/darfour-l-interminable-crise_6072321_3212.html.

82. Radio Dabanga, "Hundreds protest deadly attack on North Darfur displaced," 22 July 2021, <https://www.dabangasudan.org/en/all-news/article/hundreds-protest-deadly-attack-on-north-darfur-s-displaced>.

83. Interview with Brigadier General Ali Yaqub, RSF Central Darfur commander, Zalingei, February 2021.

84. This report uses black market rates, which were considerably higher (up to six times in early 2021) than official rates until February 2021, when the government decided to abandon its fixed exchange rate.

85. Nyertiti leaders, see *Report of the Panel of Experts*, *op. cit.*, p. 64.

Sudan's history", a local leader commented.⁸⁶ Further, a government delegation visited the protesters, and quickly brought some replies to the sit-in's demands. RSF deputy commander Abderrahim Daglo offered transport to the Mortajello settlers to leave, and deployed RSF to protect the area until the harvest. In total, 200 RSF cars from outside Darfur, as well as SAF forces, were reportedly deployed in Nyertiti area following the sit-in, allowing farming around the town.⁸⁷ Most of those forces withdrew after the harvest. Some remained, acting as joint forces. In terms of development, Abderrahim Daglo gave Nyertiti an electric generator, and the Nyertiti-Zalingei road began to be asphalted (a project that also benefits the Daglo family since it was reportedly allocated to the family company Al-Jineid). The RSF also confiscated several motorbikes.

In the longer term, the security situation remained precarious. As in other parts of Darfur, return of IDPs to their land was temporary, limited to the farming season. Unbalanced arrangements, such as Fur farmers giving half of their harvest to Arab militias in exchange for security, are still in use, as in other parts of Darfur. IDPs consider permanent returns too risky, and land disputes between original owners and newcomers remain a principal cause of violence between Arabs and non-Arabs. Fur residents and IDPs still consider it dangerous to leave main towns and IDP camps. IDP and traditional leaders from Zalingei and Nyertiti areas reported that more than 20 violent incidents have taken place since Bashir's fall and that more than 50 Fur civilians had been killed by armed Arabs, including a dozen in Nyertiti area. Witnesses say perpetrators sometimes wore uniforms but that it is impossible to confirm whether they are members of government paramilitary forces, or civilians.⁸⁸

Among recent incidents, in January 2021, more than 200 armed Arabs on motorbikes, horses and camels approached Hamidiya IDP camp, near Central Darfur's capital Zalingei, claiming they were following the footprints of four stolen cows and suspecting their cows to be in the camp. "It looked like it could be another Kirinding," an IDP leader said, in reference to the massacre that took place at the same period in West Darfur.⁸⁹ Governor Adeeb Yusif reportedly paid SDG 170,000 (USD 550) to prevent an attack.

Further south in Wadi Saleh area, known as the former area of operations of ICC-indicted *janjawid* leader Ali "Kosheib", gunmen reportedly attacked Dileij market in November 2020, killing two Fur civilians and injuring nine. The perpetrators were identified as members of an RSF unit under former Central Darfur governor Jaffar Abdelhakam, a former regime baron from the Fur tribe who reportedly became an RSF Brigadier General and remains based in Wadi Saleh under the protection of his own RSF troops. RSF, including Arabs and Fur under Jaffar Abdelhakam, were accused of committing repeated attacks against Fur civilians in Dileij area since Bashir's fall, with 13 reportedly killed in April 2019 and 17 in June 2019.⁹⁰ In June 2021, Abdelhakam was reportedly arrested for his alleged role in the crimes committed by Ali "Kosheib" in 2003-2004.⁹¹

86. Interview with traditional leader, Central Darfur, February 2021.

87. Interview with Brigadier General Ali Yaqub, RSF Central Darfur commander, Zalingei, February 2021; *Report of the Panel of Experts, op. cit.*, p. 33.

88. Interviews with witnesses, Central Darfur, February 2021.

89. Interview with IDP leader, Hamidiya IDP Camp, Central Darfur, February 2021.

90. Interview with RSF commander, February 2021; see <https://unamid.unmissions.org/unamid-dispatches-assessment-mission-deleij-central-darfur-following-communal-clashes>.

91. See <https://www.darfur24.com/en/2021/06/11/former-central-darfur-state-governor-arrested-and-transferred-to-khartoum/>.



Inhabitants of Fatta Borno in front of a mural protesting against the presence of Arab militias riding motorbikes, frequently attacking the village and the farmers who dare to leave it. North Darfur, October 2020. © Jérôme Tubiana

3. North Darfur

Situations of land occupation and rebel fragmentation are also impacting North Darfur. Related incidents which took place in eastern and northern Jebel Marra, administratively part of North Darfur but where dynamics are similar to those in Central Darfur, are mentioned above under the Central Darfur section.

Since mid-2021, armed Arabs in cars, on motorcycles and horses attacked Zaghawa IDPs returning to farm south of El-Fasher, displacing more than 40,000 people in August.⁹² The same month, they also clashed with rebel signatories to the Juba Peace Agreement, specifically members of the rebel Gathering of Sudan Liberation Forces (GSLF), which reportedly caused the deaths of seven GSLF fighters and three Arabs.⁹³ According to a GSLF member, a rebel convoy was on its way to Tabit to form joint protection forces with government forces, when it was ambushed by Arab militias opposed to the peace agreement. Arab communities in this area, like others, reportedly fear the peace agreement will compel them to give up land they have occupied since 2003. A GSLF source also claimed that those Arab militias are manipulated by SAF Military Intelligence in an attempt to spoil the peace agreement.⁹⁴ They are likely to feel further empowered by the October 2021 coup.

92. IOM (International Organization for Migration), "Displacement Tracking Matrix Sudan, Tawila, North Darfur, Update 3," 2 September 2021.

93. *Sudan Tribune*, "Deadly fighting erupts in North Darfur between former rebels, Arab tribes," 8 August 2021.

94. Phone interview with GSLF member, August 2021.

3.a. Fatta Borno and Kutum⁹⁵

Kutum town and neighbouring Fatta Borno, in North Darfur, are rich farming areas inhabited by non-Arab Fur and Tunjur farming communities. Since 2003, Arab nomadic communities, partly settled in *damras* (settlements) around Kutum and Fatta Borno, have been heavily recruited into *janjawid* militias and have attacked non-Arab communities, forcing many to take refuge in Kutum and Fatta Borno towns, as well as Kasab IDP camp near Kutum. The Arab settlements were virtually turned into military garrisons, and Arab militias exerted violent control over the rural areas, while establishing some new settlements. Non-Arabs leaving towns or IDP camps to farm or fetch wood were harassed and beaten, men often killed, and women raped. As in other parts of Darfur, those who succeeded in farming often had to negotiate unbalanced agreements with Arab militias, by which they would agree to give the Arabs a share of their harvest in exchange for being allowed to farm their own land without being attacked.

After Bashir's fall, such unequal deals were gradually challenged by more confident non-Arab resistance committees, youths and IDPs. In July 2020, those groups organised a protest sit-in Fatta Borno, a small town with 10,000 inhabitants, many displaced from nearby villages since 2003, echoing other similar sit-ins across Darfur and the rest of Sudan at the same period.⁹⁶ The demands were not only national but also local, related to peace, security and occupied land. According to an Arab traditional leader, these topics "sent wrong messages to the Arabs".⁹⁷ On 30 June 2020, security forces had shot at a similar sit-in in Kebkabiya, injuring six protesters.

A week after the beginning of the sit-in in Fatta Borno, government officials visited the town, and were accused by the protesters of bias in favour of the Arabs (civilian governors had not yet been appointed).⁹⁸ After heated discussions, the security forces in charge of protecting the sit-in were ordered to withdraw: inhabitants of Fatta Borno later accused local authorities of having then, in retaliation against the protesters, allowed the violence that followed.⁹⁹ The next morning, at least 100 Arab gunmen on motorbikes rode into the town, shot at protesters, killing ten, and pillaged houses.¹⁰⁰ Inhabitants of Fatta Borno claim the attackers included members or ex-members of RSF or other paramilitary forces. They may also have included Hilal loyalists, opposed to Hemetti. The attackers only withdrew in the evening, after a late deployment of government and UNAMID forces.¹⁰¹ UNAMID's confidential incident report acknowledged the presence of some RSF at the time of their visit, while, ambiguously, regretting the absence of security forces. The incident report mentioned that UNAMID, after having been blocked at (likely RSF) checkpoints, was monitoring the situation with the backing of the RSF and had handed over ammunition collected on the site (including unexploded ordinance) to the RSF, therefore possibly in violation of UNAMID's own procedures.

After the massacre, a joint SAF, RSF and CRP force was deployed, although the RSF had been accused of being involved in the incident. The joint force was nevertheless successful in preventing further violence. Civilians in Fatta Borno and Kutum mentioned that as early as 2017, RSF deployments in the area had been useful in providing security to villagers, including when they moved outside town to farm. Others were more sceptical and regretted that the force was only able to establish a buffer

95. See Jérôme Tubiana, "In Darfur," *London Review of Books*, 3 June 2021, <https://www.lrb.co.uk/the-paper/v43/n11/jerome-tubiana/diary>; and "The revolution was hijacked," *op. cit.*

96. *Report of the Panel of Experts, op. cit.*, p. 28.

97. Interview with Arab traditional leader, Khartoum, January 2021.

98. Interviews with residents, Fatta Borno, October 2020.

99. Interviews with residents, Fatta Borno, October 2020.

100. Interviews with residents, Fatta Borno, October 2020.

101. Interviews with residents, Fatta Borno, October 2020.

between civilians blocked in the town and Arab militias, still present in the vicinity and preventing the non-Arabs from farming.¹⁰²

According to the UNSC Panel of experts on the Sudan, on 14 July 2020, the day after the massacre, the state authorities, backtracking on their initially hostile position towards the sit-in, ordered the arrest of the suspected perpetrators, an immediate evacuation of the “aggressors” from farm lands, confiscation of motorcycles and weapons, as well as a ban on wearing turbans – thus responding positively, albeit belatedly, to the protesters’ main demands.¹⁰³ However, it does not seem that the decree was enforced.

At the same time, a protest was organised in Kutum in support of the Fatta Borno sit-in. There, protesters attacked and set fire to the police station. Six were injured by tear gas and bullets fired back by the police. SLA-AW supporters were accused – notably by North Darfur governor Mohamed Hasan Arabi – of being among both the protesters who attacked Kutum police station, and the sit-in in Fatta Borno.¹⁰⁴

3.b. Zuruq¹⁰⁵

Zuruq is one of several strategic water points at the edge of the Sahara Desert, acting as stopping point for camel nomads migrating to northern pastures after the rainy season. The area was long used by both Arab and non-Arab Zaghawa herders. Zaghawa kings used to hold customary rights over the land, granted by Darfur’s sultans in pre-colonial times. The area is wide, little populated and relatively marginal, but remains symbolically important to the Zaghawa, who consider their historical rights have been challenged by Arab attempts at establishing permanent settlements and services in Zuruq and other similar stopping points, especially since the 1990s, with the support of the Bashir regime. In 1995, Arab attempts to drill boreholes led armed Zaghawa to expel the Arabs from the area, and the boreholes were destroyed.

At the beginning of the conflict in 2003, Zaghawa rebels took control of the area and of the strategic routes towards Libya, preventing Arab nomads and traders from having access to those roads. *Janjawid* militias, including under Hemetti, repeatedly raided the area, and government planes bombed it, forcing the remaining rebels to eventually leave for Libya in 2015. In 2017, the RSF established a military camp in Zuruq itself. Then Hemetti set up a settlement on a nearby hill and moved a large proportion of his Awlad Mansur clan from South Darfur, where they had been based since the 1980s, to the new “capital”. Boreholes were drilled in various locations nearby, and a school and a clinic were built. All services are managed and protected by the RSF. In 2018, there was an attempt to divert the booming smuggling business of cars coming from Libya, on which taxes notably benefit the RSF, to Zuruq. Libyan smugglers reportedly resisted the move, preferring to follow the historical route to El-Malha, further east.

According to the Juba Peace Agreement, which Hemetti initiated and promised to implement, traditional land rights should be recognised, and new settlements built since 2002 should be evacuated. According to Hemetti’s uncle, *omda* Juma’ Daglo, this is why his clan moved from their earlier settlement of Um el-Gora (or Dogi), north of Nyala, where he recognised that the land belonged to the Fur, and settled in Zuruq, claiming it is his tribe’s historical homeland. (Juma’, until

102. Interviews in Khartoum, September 2020, Kutum and Fatta Borno, October 2020.

103. *Report of the Panel of Experts, op. cit.*, p. 63.

104. Interview with North Darfur governor Mohamed Hasan Arabi, Khartoum, September 2020.

105. See Jérôme Tubiana, “In Darfur,” *op. cit.*; and “The revolution was hijacked”, *op. cit.*

then recognised as an *omda* in South Darfur, now claims he is the *omda* of Zuruq.)¹⁰⁶ This has been disputed by Zaghawa civilians and rebels, including those based in Libya, who notably mobilised on social media. Some Zaghawa based in the Zuruq area acknowledge that, since Bashir's fall, local co-existence with the Arabs and the RSF has become easier. Many believe it could last, but only if the Arabs recognise the largely symbolic authority of the Zaghawa chiefs over the land, and do not claim their own land rights, as such claims have been a major cause of conflict in the past.

During Bashir's rule, Arab settlements in North Darfur also tried to evade the authority of non-Arab traditional leaders by creating a new "shadow" administrative locality, known as al-Waha ("the oasis"), grouping together Arab settlements once situated in various ethnically diverse localities. Rebels also consider that the Juba Agreement implies that the al-Waha locality should be suppressed, and that both native and government administrative maps should be based on territorial rather than tribal concerns.¹⁰⁷ Otherwise, they argue, violent conflicts could resume in the northern part of North Darfur.

4. South Darfur

South Darfur was not spared from post-Bashir violence. The state was also the location of attacks against civilians from the Masalit community in the area of Gereida, the Masalit stronghold in South Darfur. Masalit villages and IDP camps were repeatedly attacked by militias allegedly belonging to the Fellata (Pula), an Arabised community whose members were also recruited into the former regime's auxiliary forces, and who accuse Masalit IDPs of occupying their historical land. Fourteen people, mostly Masalit IDPs, were killed in July 2020 and twelve to fourteen were killed in October 2020.¹⁰⁸

Fellata militias also repeatedly clashed with Rizeigat Arab militias, the latter disputing the former's right to their own land in Darfur, because of their origins from Central and West Africa. That conflict caused more than 30 deaths in the area of Tullus, the Fellata capital, in May 2020.¹⁰⁹ It resumed in January 2021, resulting in a further 72 deaths and 73 injured.¹¹⁰ Abderrahim Daglo's attempts at mediating a truce were short lived, notably because, as a Rizeigat Arab himself, he was not considered sufficiently neutral.¹¹¹ In June 2021, similar clashes between Fellata and Ta'aisha Arabs killed at least 36 and injured 32.¹¹²

As in other states, Arab militias also targeted Fur civilians. In June 2020, after the murder of two Arab civilians, Kalma IDP camp, known to be a stronghold of SLA-AW's supporters, was reportedly surrounded by "thousands of armed Arabs (...) threatening to storm it in search of the perpetrators".¹¹³ The RSF reportedly succeeded in preventing an attack.

Furthermore, in June and July 2020, in Kas area south of Jebel Marra, Misseriya Arabs (historically divided into various sub-groups) reportedly including RSF members, attacked a Fur village, killing six civilians.¹¹⁴ Further Arab attacks on non-Arab villages took place in August 2020 after peaceful protests against the release of two RSF alleged perpetrators.

106. Interview with *omda* Juma' Daglo, Zuruq, October 2020.

107. Interview with SLA-MM chairman Minni Minawi, Khartoum, February 2021.

108. *Report of the Panel of Experts, op. cit.*, p. 32.

109. *Ibidem*.

110. UNHCR (United Nations High Commissioner for Human Rights), Statement by Spokesperson Ravina Shamdasani, 22 January 2021.

111. *Report of the Panel of Experts, op. cit.*, p. 37.

112. Reuters, "Several dozen reported dead in clashes in South Darfur," 6 June 2021.

113. *Report of the Panel of Experts, op. cit.*, p. 31.

114. Interview with Fur traditional leader from Kas area, location withheld, February 2021.



The Northern Saharan part of Darfur was controlled by rebels between 2013 and 2015. Then the RSF took control of the area and drilled water tanks for Arab camels. North Darfur, February 2021. © Jérôme Tubiana

II. JUSTICE AND CIVILIAN PROTECTION WITHIN SUDAN'S TRANSITION

Peace and justice - for crimes committed before, during and after the revolution - are among the main promises of the Sudanese transition. With the slow pace of the transition, demands for justice and security in the country's peripheries became more pressing, not least in Darfur. The October 2020 Juba Peace Agreement between the government and main rebel groups included various provisions, in particular related to justice and security. However, implementation of the deal's security arrangements has suffered from the same slow pace as the rest of the transition, crucially in a context of withdrawal of international forces from Darfur. At the national level, legal reform progressed slowly, but justice efforts in relation to crimes committed since Bashir's fall, in Darfur as well as in Khartoum, have largely stalled. The main obstacles stemmed from persistent divisions between and within civilian and military components of the transitional authorities, which contributed to the October 2021 coup. A military takeover is likely to complicate further justice efforts.

1. Justice and security provisions within the Juba Peace Agreement

The October 2020 Juba Peace Agreement contains various provisions on justice and security, in particular in Darfur. The document is composed of different geographic agreements (one national and five regional), among which the Darfur agreement is particularly detailed, including in relation to justice and security.¹¹⁵

1.a. Justice

The agreement's section on "justice, accountability and reconciliation" introduces the following as "general principles": "ensuring that all perpetrators of violations of human rights and international humanitarian law are held accountable pursuant to the jurisdiction of domestic courts, the International Criminal Court, or the Special Court for war crimes in Darfur", and the "recognition of the importance of local and indigenous methods of truth-telling, justice, reconciliation, and healing in complementing formal processes of justice and reconciliation".¹¹⁶

115. It should be noted that the "two areas" (South Kordofan and Blue Nile) file contains less detail on the justice issue, possibly because the ICC, limiting itself to Darfur, made justice stakes higher among Darfur rebels (and civilians at large) than they are in the two areas. Informants also said leaders of the SPLM-N active in the two areas are more reluctant in relation to judicial processes which could target them. The "two areas" file includes detailed transitional justice provisions, with possible ambiguities between provincial and national tasks. Government negotiator Mohamed Hasan al-Ta'aishi indicated that the main mechanism should be a "two areas" branch of the national transitional justice commission. Interview with Mohamed al-Ta'aishi, Khartoum, February 2021. The Juba Agreement's "national" file similarly contains less detail than the Darfur file on justice, although it crucially provides for "strict legislation criminalising all kinds of racism", which could be a major step forward within Sudan's legal framework.

116. "Juba Peace Agreement", August 2020 (signed October 2020), unofficial translation. Also see Rosalind Marsden, "Is the Juba Peace Agreement a Turning Point for Sudan?", *Chatham House*, 14 September 2020, <https://www.chathamhouse.org/2020/09/juba-peace-agreement-turning-point-sudan>.

The agreement provides for the establishment of three crucial institutions:

- a Special Court for Darfur crimes, with “jurisdiction to prosecute genocide, crimes against humanity, war crimes and gross violations of international human rights and humanitarian law since 2002”, *de facto* replacing the former Special Criminal Court on the Events in Darfur, established in 2005 by the Bashir regime as an argument to evade the ICC;
- a truth and reconciliation commission in charge of investigating “violations, crimes, and human rights abuses including violations of economic, social, environmental, and cultural rights committed since June 1989”, but which “shall not have the authority to grant amnesty of any kind, unless approved by victims”;
- and a Darfur land commission in charge of solving land disputes, replacing the one formerly established after the 2006 Darfur Peace Agreement (DPA) which continued after the 2011 Doha Document for Peace in Darfur (DDPD).¹¹⁷

A major issue will be complementarity between different institutions, including the national judiciary, the Special Court for Darfur, and the ICC, as well as transitional justice mechanisms (such as the truth and reconciliation commission) and traditional justice. The agreement specifies that the national judiciary’s role should be limited to cases which cannot be addressed through other avenues.¹¹⁸ But there is still room for confusion between those other avenues. According to Attorney General Tajessir al-Hebir, the Special Court for Darfur should be in charge of war crimes and crimes against humanity and apply international criminal law.¹¹⁹ The Attorney General noted that “the agreement did not provide a mechanism in case of conflict of jurisdiction”, leaving the decision in such case to the Chief justice.¹²⁰ On the ICC, the agreement specifies that the parties “commi[t] to Security Council Resolution 1593 of 2005, which referred the Darfur situation to the ICC”, and to “full and unlimited cooperation with the ICC concerning persons for whom arrest warrants have been issued (...) facilitating the appearance of those wanted before the ICC.”¹²¹

The agreement also mentions “that there should be a comprehensive truth and reconciliation process aimed at, among other things (...), providing formal and informal apologies, individually and collectively, to the victims of war.”¹²² It also suggests that such apologies may be part of a “plea bargain in exchange for the possibility of a reduced sentence from a traditional justice mechanism”, although this is unlikely to concern the most serious crimes. Transitional justice efforts should also involve “memorialisation for victims of the conflict in Darfur” in the form of “ceremonies, museums, documentation centres, or monuments”.¹²³ According to Justice Minister, until the October 2021 coup, Nasreddin Abdelbari, the Darfur truth and reconciliation commission will have to coordinate its work with the future national transitional justice commission.¹²⁴

Furthermore, in line with the “Constitutional Charter for the 2019 Transitional Period” signed by the TMC and the FFC in August 2019, and which constitutes the basis of the transition, the Juba Agreement provides for an amnesty for “sentences and warrants issued against political leaders and members of the armed movements due to their membership therein”.¹²⁵ While this seems only aimed at the closure of possible court cases against rebel leaders dating back to the Bashir regime, thus allowing

117. Juba Peace Agreement, *op. cit.*

118. *Ibidem.*

119. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021. In May 2021, Attorney General Tajessir al-Hebir resigned, while Chief Justice Neimant Mohamed Abdallah was dismissed by the Sovereign Council.

120. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

121. Juba Peace Agreement, *op. cit.*

122. *Ibidem.*

123. *Ibidem.*

124. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

125. Juba Peace Agreement, *op. cit.*

their safe return to Sudan, the November 2020 “general amnesty” resolution that preceded the return of the signatory rebels to Khartoum was more ambiguous. Indeed, the resolution grants “pardon to all those who took part in military operations”, while excluding those accused of war crimes, crimes against humanity and genocide (including ICC indictees).¹²⁶ According to Nasreddin Abdelbari, it “won’t cover international crimes and individual cases but only those committed in the context of military engagement between the government and armed [opposition]”.¹²⁷ In ambiguous cases, “the decision will be the task of justice mechanisms”. One of the signatory leaders, Justice and Equality Movement (JEM)’s chairman Jibril Ibrahim, said the amnesty should cover possible cases related to the war but not war crimes.¹²⁸ Government negotiator Mohamed Hasan al-Ta’aishi believes the rebels may try to solve possible cases through conciliation processes.¹²⁹ Additionally, the amnesty resolution extends, beyond signatory rebels, to government military officials, raising concerns that the needed return of the signatory rebels to Khartoum was used as an excuse to reinforce the impunity of the government forces.¹³⁰ There were concerns that the amnesty could also be applied to crimes committed by historical *janjawid* leader Musa Hilal.¹³¹

In addition to remaining ambiguities on the various justice avenues, the Juba Agreement also suffers from a persistent lack or weakness of definitions. This flaw was present in the earlier Abuja and Doha peace agreements or documents. For instance, reiterating a gap in the 2011 Doha Document for Peace in Darfur (DDPD), there is no specific definition of “Darfuri” or “Darfurian”, although determining who is and who is not Darfuri is crucial in the implementation of the agreement and impacts various affirmative action provisions. Should it include members of specific Darfurian communities regardless of their place of residence or birth, or should it include only and all people residing or born in Darfur, regardless of their tribe and place of origin?

Similarly, the Juba Agreement asserts that Darfur’s “traditional” land tenure system should take precedence over Sudanese statutory land regulations. However, it uses the term “*hawakeer*” both for the land tenure system and for “tribal lands”, although historically the term referred to estates granted to individual managers during the Darfur sultanate, when the coexistence of various communities was common.¹³²

There are also some ambiguities in relation to dates. The agreement commonly uses 2002, the year early Darfur rebel movements first launched operations, as the date of the outbreak of the conflict. This is the reason the Special Court for Darfur is given jurisdiction to prosecute crimes since 2002, and the agreement also commits to the evacuation of “those residing illegally in the lands of others in Darfur since 2002”.¹³³ In the meantime, several provisions, in line with the 2018 revolution, mention another start date: June 1989, the date of the coup that brought Omar al-Bashir to power. Thus, while the Special Court’s jurisdiction will begin in 2002, the mandate of the truth and reconciliation commission will go back to 1989. Similarly, while 2002 applies to the evacuation of land occupiers, June 1989 is the start date for revocation of “the registration of lands which are proven to have been expropriated or forcibly taken”.¹³⁴

126. See <https://redress.org/wp-content/uploads/2021/01/Sudan-Sovereign-Council-Res.-489-English.pdf>.

127. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

128. Interview with JEM chairman Jibril Ibrahim, Khartoum, February 2021.

129. Interview with Mohamed al-Ta’aishi, Khartoum, February 2021.

130. *Report of the Panel of Experts, op. cit.*, p. 34.

131. Redress and PLACE, *Q&A: Sudan’s Pardon of Militia Leader Musa Hilal – and Future Accountability?*, March 2021.

132. Jérôme Tubiana, “Darfur: A Conflict for Land?” in *War in Darfur and the Search for Peace*, Alex de Waal (ed.), Harvard University Press, 2007, pp. 68–91.

133. Juba Peace Agreement, *op. cit.*

134. *Ibidem*.

Ambiguities and the lack of sufficiently specific language leave room for conflicting interpretations that may undermine the Juba Agreement's implementation.¹³⁵ Other obstacles to implementation are a lack of funding (in spite of a notional government commitment to fund \$7.5 billion out of a \$13 billion estimated cost over ten years) and the continuous insecurity on the ground.¹³⁶ On the latter issue, the agreement provides some possible solutions for the protection of civilians in Darfur.¹³⁷ However, delays in the implementation of the agreement's crucial security arrangements, due to lack of funding as well as a possible lack of political will on behalf of some sections of the transitional government, threaten the peace process.

1.b. Security

Security arrangements constitute a crucial chapter of the Juba Peace Agreement, and among them the most concrete provision is the establishment of a 12,000-member joint force, composed half of rebels, half of government forces (the latter divided into SAF, RSF, GIS and police), tasked with protecting civilians and specifically "filling the potential security vacuum after the departure of the UNAMID forces". It should have become operational in early January 2021, 90 days after the signature of the agreement on 3 October 2020, but was only officially launched in September 2021. According to Mohamed al-Ta'aishi, the implementation "matrix" is simply "not realistic".¹³⁸

The agreement also commits to integrating rebel troops into government forces and to comprehensive security sector reform to form a truly national army, including by "dismantling military and paramilitary institutions that are affiliated with the former regime". However, except for the joint force, the security arrangements lack specificity and do not provide details on the number of rebel forces that should be integrated, nor on a detailed timeline for their integration and for security sector reform. Furthermore, according to the agreement as well as to the August 2019 Constitutional Charter,¹³⁹ the security sector will be in charge of its own reform, which former regime officers may have limited will to carry out.¹⁴⁰

135. PAX, *Sudan Alert No.7*, December 2020, p. 1.

136. On funding, Mohamed al-Ta'aishi indicated that the peace agreement budget was included in the 2021 budget, showing the government's commitment, but that the funds were still to be found. Interview with Mohamed al-Ta'aishi, Khartoum, February 2021.

137. Juba Peace Agreement, *op. cit.*

138. Interview with Mohamed al-Ta'aishi, Khartoum, February 2021.

139. "The task of reforming military bodies is entrusted to military institutions in accordance with the law." See <https://constitutionnet.org/sites/default/files/2019-08/Sudan%20Constitutional%20Declaration%20%28English%29.pdf>.

140. PAX, *Sudan Alert No.7*, *op. cit.*, p. 1.



The RSF guard a desert water station where Hemetti's own camels are said to be watered, North Darfur, February 2021. © Jérôme Tubiana

2. Legal changes and reform since Bashir's fall

One of the reasons that addressing post-Bashir violence has, to date, yielded few results is that progress on legal changes or reform, as well as security sector reform, has been slow.

2.a. Security delayed

In June 2021, Hemetti rejected the integration of his RSF into the SAF.¹⁴¹ This was notably a key demand of the SPLM-N's faction under Abdelaziz al-Hilu, and a sticking point in its negotiations with the government.¹⁴² Hemetti was seen as rejecting the need for security sector reform leading to a single army, as reiterated by Hamdok, the FFC and various rebel groups (both signatories and non-signatories to the Juba Peace Agreement). However, rebels share fears with the RSF leader that integration prior to comprehensive security sector reform, would allow the SAF to take control of both Darfuri rebel and militia forces while evading a reform which could truly transform the Sudanese army into one representative of the country's regional and ethnic diversity.¹⁴³

141. *Sudan Tribune*, "Hemetti rejects integration," *op. cit.*

142. *Sudan Tribune*, "RSF's fate is behind suspension of Sudan's peace talks: report," 19 June 2021.

143. *Sudan Tribune*, "Al-Hilu, al-Nur issue joint declaration on peace in Sudan," 30 July 2021.

In recent years, those rebel movements which are today signatories to the Juba Agreement had their forces mostly based in Libya.¹⁴⁴ In late 2020 and early 2021, they began bringing back a large share of their forces (possibly a third), amounting to around 500 vehicles and 6,000 fighters, from Libya to Darfur, to participate in the agreed joint forces. Rebel combatants were mostly hoping to protect their own communities, which raises concerns as to their will to intervene in conflicts outside their own areas.¹⁴⁵ In particular, most of the signatory rebel troops belong to the Zaghawa community, while current violence is mostly impacting Masalit and Fur communities, thus implying the joint forces will mostly be tasked with protecting communities which are little represented among the signatory rebels.

In addition, in January 2021, at the time the joint force should have been established, the RSF created their own “peace force”, under the name Dira’ al-Salam (“Peace Shield”), similarly presented as a substitute to UNAMID. It is reportedly composed of several hundred vehicles and 3,000 men, and was partly deployed in El-Geneina, but seems to have played little role in stopping the April 2021 violence. Al-Nur Ahmad “Gubba”, a former Border Guard commander under Musa Hilal with a questionable human rights record, was put in charge of the new force, raising doubts about its ability and willingness to protect non-Arab civilians.

Another risk is that of clashes between signatory rebels and Arab militias and former militias, not least those opposed to the peace agreement. As mentioned above, this occurred in July 2021, when GSLF rebels, on their way to join with their government partners in joint forces, clashed with, and were allegedly ambushed by, Arab militias in North Darfur.

144. Jérôme Tubiana, Clotilde Warin and Mahamat Saleh Mangare, *Diaspora in Despair: Darfurian Mobility at a Time of International Disengagement*, Small Arms Survey, June 2020; *Report of the Panel of Experts*, *op. cit.*, p. 25.

145. *Report of the Panel of Experts*, *op. cit.*, p. 13.

Peace without keepers

UNAMID began a gradual downsizing during the last two years of the Bashir regime (2017-2019).¹⁴⁶ As West Darfur was then considered Darfur's most peaceful state, it was decided the mission could safely withdraw from the region, despite warning from locals, including UNAMID's own staff, that the situation was less stable than it looked, in particular with recurrent attacks on IDPs attempting to leave the camps. The mission stopped its operations in West Darfur in January 2019, at the beginning of the revolution, and left the state in June 2019 despite the evident uncertainty surrounding the situation at the national level. UNAMID's El-Geneina "Supercamp" base was looted by government forces and officials as well as IDPs on the eve of its handover to the Sudanese authorities.¹⁴⁷ The mission's "team site" in Mornei, east of El-Geneina, was reportedly used for some time as an RSF recruitment centre.¹⁴⁸ Other UNAMID bases all over Darfur were similarly looted, or occupied by security forces, including RSF – in violation of what had been agreed with the government – before being abandoned.¹⁴⁹ The mission's camp in South Darfur's capital Nyala was allegedly looted at the instigation of the former governor himself, first by military forces, then by civilians.¹⁵⁰ In May 2019, the UN and the African Union "reported that the majority of the 23 team sites, already handed over, were being used by security forces in contravention of an agreement with the government on the civilian use of UNAMID team sites".¹⁵¹ The same month, regardless of what had been agreed under Bashir, the TMC issued a decree "that UNAMID team sites be handed over to the RSF", which was rejected by the UN.¹⁵² However, still in May 2019, despite concerns about the looting and the RSF taking over bases, the UN and the AU did not change their plans aimed at UNAMID's complete departure with a deadline of 30 June 2020 (eventually postponed to 31 December 2020).¹⁵³

Many West Darfur informants, including former UNAMID staff, stated that UNAMID was mostly involved in observing and reporting, and that its reporting was often inaccurate or biased towards the Bashir government. The mission had reportedly failed to react, for instance, during an earlier attack on Misterei. However, despite this, many also consider that the very presence of UNAMID, and awareness that it was observing and reporting, acted as a strong deterrent against possible violent attacks, for example against Kirinding. Civilians in Fatta Borno, North Darfur, also mentioned that a UNAMID deployment, albeit delayed, contributed to the withdrawal of militia forces responsible for

146. FIDH and ACJPS, *Will There Be Justice For Darfur? Persisting impunity in the face of political change*, December 2019, p. 33.

147. *Sudan Tribune*, "African Union, UN condemn looting of UNAMID base in West Darfur," 19 May 2019.

148. Interview with UNAMID personnel, February 2021.

149. Interview with UNAMID personnel, February 2021. See EPON, *op. cit.*, p. 84; and Radio Dabanga, "UNAMID concerned over allegations of improper team site handovers", 11 September 2017, dabangasudan.org/en/all-news/article/unamid-concerned-over-allegations-of-improper-team-site-handovers.

150. Interview with UNAMID personnel, February 2021.

151. EPON, *op. cit.*, p. 84.

152. *Ibid.*, p. 85; and Column Lynch, "Sudan's Paramilitaries are Seizing Abandoned U.N. Outposts in Darfur", *Foreign Policy*, 7 June 2019.

153. EPON, *op. cit.*, p. 84; FIDH and ACJPS, *Will There Be Justice For Darfur?*, *op. cit.*, p. 33.

the July 2020 massacre. As stated by a specific study on UNAMID's impact, "community perceptions offer a mixed view that reflects the likelihood that UNAMID was not a robust protector of civilians, but also that its presence, monitoring and patrolling had a deterrent impact at times."¹⁵⁴ The withdrawal of UNAMID may encourage further abuses.

The fact that the second attack on Kirinding, in January 2021, took place only two weeks after the final closure of UNAMID across Darfur, appeared to vindicate those arguing that the mission had a deterrent role, and should have remained longer. In neighbouring Central Darfur, while no similar major attack was reported, IDPs reported that as soon as UNAMID stopped its usual patrols allowing IDPs to leave the camps to farm or fetch firewood, in December 2020, new violence took place: eight IDPs, including one woman, who had ventured outside Hamidiya camp, were killed, and three women were raped.¹⁵⁵ IDPs were also reportedly threatened by SAF commanders with further violence "when UNAMID leaves".¹⁵⁶

In addition, by early 2021, although the UN reiterated that it was the government's responsibility to prevent pillage of the bases that had been handed over, such incidents recurred. The first team site handed over after the end of UNAMID's mandate, in Saref Omra in North Darfur in January 2021, intended to serve as a vocational training centre, was immediately looted.¹⁵⁷ This was followed by the looting of the team site of Menawashi, South Darfur.¹⁵⁸ In June 2021, the pillage of the Shangal Tobay team site, in North Darfur, caused two deaths.¹⁵⁹

The decision to withdraw was taken on the basis of the transitional government's new "national plan for the protection of civilians", which was shared with the UN in May 2020 and used as a further argument by the supporters of the mission's closure.¹⁶⁰ The January 2021 Kirinding attack, and the weak reactions of the government forces, were also seen as an indication of the early failure of the government's protection strategy. Experts characterised the strategy as well intentioned but vague, significantly overlapping with the Juba Agreement.¹⁶¹

The peace agreement however means that the government strategy will have to considerably evolve. Indeed, a major provision of the agreement implies that the joint forces, on which security in Darfur was strongly based even before the drafting of the government strategy, will have to include a large rebel component. As mentioned above, those joint forces will now be composed of 12,000 members, half from the usual government joint forces (SAF, RSF, police or CRP, and GIS), and half from rebel group signatories to the Juba Agreement.

154. EPON, *op. cit.*, p. 65.

155. Interviews with IDPs, Hamidiya IDP Camp, Central Darfur, February 2021.

156. Interview with UNAMID personnel, February 2021.

157. *Sudan Tribune*, "UN chief condemns 3rd looting attack on UNAMID site in N. Darfur", 23 February 2021.

158. *Sudan Tribune*, "Security forces recover equipment stolen from UNAMID site in South Darfur", 13 March 2021.

159. Radio Dabanga, "Deaths and injuries as another UNAMID site is looted in North Darfur," 8 June 2021, <https://www.dabangasudan.org/en/all-news/article/deaths-and-injuries-as-another-unamid-site-is-looted-in-north-darfur>.

160. *Letter dated 21 May 2020 from the Permanent Representative of the Sudan to the UN addressed to the President of the Security Council*, S/2020/429, 1 June 2020, <https://undocs.org/en/S/2020/429>.

161. EPON, *op. cit.*, p. 107.

2.b. Legal reforms

Initiatives for legal reform introduced since Bashir's fall are based on the Constitutional Charter signed by the TMC and the FFC in August 2019, which constitutes the basis of the transition. The Charter mentions, among "duties" in the transitional period to:

- Carry out legal reform, rebuild and develop the human rights and justice system, and ensure the independence of the judiciary and the rule of law;
- Start implementing transitional justice and accountability measures for crimes against humanity and war crimes, and present the accused to national and international courts, in application of the no-impunity principle.¹⁶²

On this basis, the transitional government was supposed to establish several independent commissions, including commissions on peace, anti-corruption, transitional justice, human rights and legal reform.¹⁶³ After delays reportedly caused by other priorities, draft laws on peace, anti-corruption and transitional justice commissions were published in July 2021.¹⁶⁴ But by October 2021, transitional justice, human rights and legal reform commissions, were still to be formed.

The transitional justice bill is intended to lead to the establishment of a commission, which, based on broad consultations, should draft a transitional justice law and "reconcile the various transitional justice initiatives and mechanisms, including the judicial, non-judicial and related independent commissions (...) in a unified national approach".¹⁶⁵ It should notably consider existing transitional justice provisions in the Juba Peace Agreement. The bill also provides that it should decide whether to establish a truth commission.

The transitional justice commission bill define transitional justice as "an integrated set of mechanisms and methods adopted to understand and address the past human rights violations by uncovering the truth, holding accountable those responsible, redressing victims' harm and providing reparations to them in a way that achieves reconciliation, preserves and documents collective memory, and establishes guarantees of non-repetition of violations, and the transition from a state of tyranny to a democratic system that contributes to the consolidation of the rule of law and the promotion of human rights".¹⁶⁶

Thus, in addition to promoting truth telling, reconciliation and reparation, the bill emphasised that transitional justice should also involve "accountability for those responsible for violations" The bill specifies that reconciliation "does not mean in any way impunity and failure to hold accountable those responsible for violations".¹⁶⁷ The commission should therefore safeguard the right of victims to seek justice through all possible avenues.

162. See <https://constitutionnet.org/sites/default/files/2019-08/Sudan%20Constitutional%20Declaration%20%28English%29.pdf>.

163. *Ibidem*; SOAS and Redress, *Legal and Institutional Reforms in Sudan*, March 2021, p. 6.

164. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021; see <https://twitter.com/MOJSUDAN/status/1416744925929086984>.

165. See REDRESS, Transitional Justice Commission Bill, unofficial translation, available at <https://redress.org/wp-content/uploads/2021/03/Transitional-Justice-Commission-Bill-2020-English.pdf>. According to the bill, the commission should be composed of 11 members, including (at least) three civil society representatives, and excluding leaders of political parties and rebel movements, as well as former regime officials. The consultation process, not least with civil society, needed to address the fact that, according to a recent survey, "Trust in government institutions to carry out transitional justice is low as a result of ineffective public consultations and lack of transparent information sharing to date." United States Agency for International Development (USAID), *National Perception Study of Transitional Justice in Sudan: Final Report* (Executive Summary), 10 September 2020, quoted by Andrew Harry Songa, "Silencing the Guns and COVID-19: A Converging Point for Transformative Transitional Justice?", *Africa Amani Journal*, Vol. 3, Issue 1, December 2020, p. 10.

166. See REDRESS, Transitional Justice Commission Bill, *op. cit.*

167. *Ibidem*.

In April 2021, another draft bill establishing a new “internal security apparatus” under the Sovereign Council, with police, judiciary and military powers as well as immunity from prosecution, was criticised by civil society organisations, fearing an attempt to resurrect the NISS. The Justice Minister responded that it was only a draft.¹⁶⁸

Together with the draft legislation mentioned above, ratification of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) was approved first by the Council of Ministers, then, in February 2021, by the Sovereign Council.¹⁶⁹ In August 2021, the government finally deposited the required instruments of ratification with the UN Secretary General.¹⁷⁰ The Labour Ministry led efforts towards the ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol). Ratification of both instruments was approved by the Council of Ministers in April 2021,¹⁷¹ subject to the same three reservations as Saudi Arabia: on articles 2 (enshrining the gender equality principle in the Constitution), 16 (equality in marriage and family relations) and 29(1) (jurisdiction of the International Court of Justice). However, ratification faced opposition by some Islamist and conservative sections of the political spectrum.

168. See REDRESS, Draft Internal Security Law, unofficial translation, <https://redress.org/wp-content/uploads/2021/04/2021-Draft-Internal-Security-Law-English-Translation.pdf>; and People’s Legal Aid Center (PLACE), Draft Law of the Internal Security Apparatus 2021, Question and Answers, <https://redress.org/wp-content/uploads/2021/04/PLACE-Internal-Security-Bill-QA.pdf>.

169. SOAS and Redress, *op. cit.*, p. 3.

170. See REDRESS, Press release, “In Historic Move, Sudan Ratifies Key International Treaty on Torture, Joining 171 Other States”, 12 August 2021, available at <https://redress.org/news/in-historic-move-sudan-ratifies-key-international-treaty-on-torture-joining-171-other-states/>; see <https://treaties.un.org/doc/Publication/CN/2021/CN.251.2021-Eng.pdf>; and <https://treaties.un.org/doc/Publication/CN/2021/CN.252.2021-Eng.pdf>.

171. *Sudan Tribune*, “Sudan’s cabinet approves CEDAW ratification,” 28 April 2021.



Fatta Borno is surrounded by Arab militias. Non-Arab inhabitants are unable to leave town to farm because of the risk of being beaten or shot at. In front of murals depicting their abandoned gardens, young non-Arab inhabitants follow the news from Khartoum on a smartphone. North Darfur, October 2020. © Jérôme Tubiana

3. Justice for crimes committed during post-Bashir violent episodes

While the Juba Peace Agreement remains largely unimplemented, security sector reform has stalled and legal reform has been progressing slowly, in Darfur there have been strong calls for accountability for the most recent crimes.

The UNSC Panel of Experts on the Sudan noted some progress in terms of accountability following a July 2020 attack on a South Darfur return village, resulting in 15 deaths. By October 2020, the RSF had reportedly arrested 39 alleged perpetrators. The Panel noted, “these accountability measures were widely welcomed, but remained the exception.”¹⁷²

Responses by the Sudanese judiciary to the massive violence in West Darfur since Bashir’s fall offer a more emblematic illustration of new efforts aimed at accountability during the transition period, but also underline the risks of triggering further disillusion on the part of victims and others hoping that the end of the Bashir regime would herald a new era for justice.

¹⁷² *Report of the Panel of Experts, op. cit.*, p. 34.

3.a. Different qualifications of the violence and different solutions

Indeed, various players qualified the violence in West Darfur differently, implying there could be different ways to address it. Many within the transitional government referred to the incidents, beginning with the December 2019 attack on Kirinding, as “tribal conflicts”, a characterisation that was sometimes repeated by international players. Attorney General Tajessir al-Hebir also described incidents in Fatta Borno, Gereida and Kas as “tribal problems”. He added that in Fatta Borno, “there’s an aggressor and an aggressed”, while in West Darfur “everybody has their own weapons to defend themselves”, suggesting that the fact that Masalit self-defence groups had defended themselves when they were attacked made justice efforts more complicated. He also mentioned that the complexity of such efforts was aggravated by the massive aspect of the West Darfur violence: “In West Darfur, obviously, these are not individual incidents but attacks against peace.”¹⁷³

Most Masalit dispute qualifications linking the violence to “tribal conflicts” or “tribal problems”, stating that the West Darfur violence, beginning with the first attack on Kirinding in December 2019 should be qualified as attacks on civilians, including, in the case of the two Kirinding attacks, on IDPs, emphasising that this population deserves particular protection. As a consequence, the Masalit called for the justice system to handle the cases. Dar Masalit sultan Sa’ad Bahareddin stated: “It should be solved by justice and accountability: the government should arrest perpetrators, including Masalit from the self-defence groups: they’re criminals too.”¹⁷⁴

In contrast, both the central government, including reportedly Hemetti, and West Darfur Arab communities have expressed a preference for addressing the issue through a tribal reconciliation process (*suluh*) involving the payment of *diya* (compensation money). The Attorney General argued that, “victims were looking for damage assessment and compensation”.¹⁷⁵ This approach to dispute resolution was also reportedly suggested by the government delegation, including Hemetti, Prime Minister Abdallah Hamdok, Justice Minister Nasreddin Abdelbari and the Attorney General, who visited El-Geneina shortly after the December 2019 attack on Kirinding. The approach is not only supported by Arab traditional leaders, but also, reportedly, by some Masalit traditional and political leaders affiliated to the former regime, who were subsequently involved in several reconciliation initiatives. Those initiatives were rejected by the Masalit population, who supports a justice process. In addition, getting wind of possible judicial consequences, some perpetrators – mostly involved in looting properties – engaged directly in local settlements with victims, leading to the restitution of stolen belongings.

3.b. December 2019 Kirinding attack

Following Masalit calls for justice, Masalit victims reportedly filed several hundred complaints with the Public Prosecution, including one for murder against the West Darfur security committee, gathering the former governor and the heads of SAF, police, GIS and RSF (the latter being Musa “Ambello”).¹⁷⁶

Following the government delegation’s visit, the Attorney General established an investigation committee on the first attack in Kirinding and reportedly heard 119 witnesses, and identified 82 perpetrators, including several RSF officers.¹⁷⁷ The committee reportedly divided the case into five files. In the main file, 53 alleged perpetrators are charged with murder, destruction, burning,

173. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

174. Interview with sultan Sa’ad Bahareddin, El-Geneina, February 2021.

175. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

176. Commission of Indictment for Private Right for Kirinding IDP camp massacre, *op. cit.*

177. *Ibidem*, and interviews with lawyers, locations withheld, February 2021.

looting and cybercrime (the latter for inciting to violence through social media). Among them six RSF members from Arab communities, including Musa Ambello, are accused of direct participation in the violence. Three other files concern complaints relating to the murder of four Arab victims. The alleged perpetrators are Masalit civilians as well as one Masalit policeman. The fifth and last file relates to complaints by Masalit civilians whose belongings were looted during the attack, although, in such cases, the victims reportedly often prefer to negotiate the restitution of their properties.

Following the investigation, 75 arrest warrants were reportedly issued, mainly against civilians, but also against some members of government forces – including members of RSF from Arab communities, and members of SAF and police of Masalit ethnicity.¹⁷⁸ Only 21 of the 75 were arrested, and they comprised only 13 of the 53 individuals accused of murder and other crimes against Kirinding IDPs. The 21 arrested are mostly civilians, both Arab and Masalit. Three Masalit policemen and four of the six RSF members accused in the main case were also arrested. Of those four RSF members, only one is an officer (a captain). The two RSF members accused in the main case who were not arrested are Musa Ambello and another colonel.

In order to be arrested, the immunity of RSF members was lifted. Members of Sudanese security forces indeed benefit from immunity provisions enshrined in various provisions of national legislation, including the Armed Forces Act (2007), the Police Act (2008) and the National Security Act (2010). Immunity can only be lifted by the leadership of the relevant security forces in response to a request from the Public Prosecution.¹⁷⁹ Immunity was not lifted for some of the accused members of security forces in the case of the December 2019 attack. In addition, in some cases requests to lift immunity, including to the RSF, were not made. The Attorney General explained that some cases risk damaging local peace, and that testimonies were “unclear” and video evidence weak.¹⁸⁰ In addition, the police reportedly said it was impossible for them to arrest suspects who were armed.

By February 2021, the three cases of murder of Arabs by Masalit were before the criminal court, and the accused policeman’s immunity had been lifted. Progress has been slower in cases of murders of non-Arabs by Arabs, notably because immunities were not lifted. Lawyers defending victims concluded that there was still “no access to justice”.¹⁸¹ Furthermore, 21 plaintiffs or witnesses in relation to the December 2019 attack were reportedly killed, possibly intentionally, during the January 2021 attack on Kirinding. Witnesses were also threatened, and some of the accused reportedly left West Darfur or even Sudan.¹⁸² By March 2021, however, the Public Prosecution announced it had referred 33 cases to court, including 18 for “premeditated murder”.¹⁸³

3.c. July 2020 Misterei attack

The Attorney General indicated that he was more “hopeful” in the case of Misterei.¹⁸⁴ Another investigation committee from Khartoum visited Misterei in August 2020, reportedly leading to some further 50 arrest warrants – all against Arabs considered civilians. As in the Kirinding case, the police reportedly said it was impossible to arrest the suspects since they were armed. In January 2021, the arrest of one of the suspects was reportedly prevented by civilians from his tribe. The Attorney

178. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

179. FIDH and ACJPS, *Will There Be Justice For Darfur?*, *op. cit.*, p. 77.

180. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

181. Interview with lawyers, location withheld, February 2021.

182. Commission of Indictment for Private Right for Kirinding IDP camp massacre, *op. cit.*

183. See https://www.facebook.com/permalink.php?story_fbid=282497363252486&id=111158367053054.

184. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

General said he had requested the Interior Ministry and the Sovereign Council to instruct joint forces to enforce arrest warrants.¹⁸⁵

3.d. January 2021 Kirinding attack

As for the January 2021 attack on Kirinding, the Attorney General dispatched a team of four prosecutors as early as 17 January 2021. That same night, the governor's house, close to where prosecutors were staying, was reportedly targeted by unidentified gunmen exchanging fire with the guards, leading to the return of the prosecutors to Khartoum. By late January, prosecutors were sent back to El-Geneina, but their investigation was hampered by the fact that the state judiciary was located in "gathering sites" where IDPs had settled. Continued insecurity also prevented the team from visiting Kirinding. Furthermore, IDPs and victims appeared reluctant to report cases and to collaborate with the investigation, because of the lack of results of the judicial process in relation to the December 2019 attack. Some Masalit have called for an independent investigation committee –international or national – based on the model of that set up in relation to the repression of the Khartoum sit-in on 3 June 2019 (see box below). By October 2021, none of the complaints related to violence committed in West Darfur had resulted in any conviction.

Kirinding Camp IDPs building shelter, Al-Zahra school IDP Gathering site, El-Geneina, West Darfur, February 2021. © Jérôme Tubiana



185. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

3 June investigation committee

After Bashir's fall in April 2019 and the subsequent establishment of the TMC, civilian protesters increased pressure on the military, demanding a civilian transition. They organised a massive sit-in in front of the military headquarters. Their strategy was to divide the military forces in an attempt to gain support from some of their components. This initially seemed to pay off. However, on 3 June 2019 members of the armed forces violently dispersed the sit-in, reportedly using live ammunition, killing at least 128 people and injuring at least 700. Cases of rape and other forms of sexual violence were also reported, with medical doctors estimating that at least 70 rapes were perpetrated against women and men on that day.¹⁸⁶

The August 2019 Constitutional Charter stated that a "national, independent investigation committee" shall be formed "to conduct a transparent, meticulous investigation of violations committed on June 3".¹⁸⁷ The investigation commission (or committee) was formed in October 2019 but the process has been criticised for its slow progress. The victims' families are frustrated by the slow pace, and in April 2021, the Organisation of the December Revolution Martyrs' families announced it was seeking to have the case referred to the ICC. The committee nevertheless reportedly received testimonies from more than 3,000 witnesses, including all members of the former TMC (among them the five military members of the Sovereign Council, including al-Burhan and Hemetti in April-May 2021).¹⁸⁸ Justifying the committee's caution, its chairman Nabil Adeeb, human rights lawyer, was quoted saying that "the result could lead to a coup d'état or to mass unrest in the streets."¹⁸⁹ By October 2021, the committee was yet to release its conclusions. In the aftermath of the October coup, Minni Minawi, distancing himself from the military, denounced the latter's attempt, notably, to secure their impunity for the 3 June massacre. There were also reports that witnesses were intimidated.

Hemetti's defence will be crucial, considering the large focus by the media on the RSF's role in the dispersion. It is also likely that SAF officers tried to put the blame on the RSF rather than on other forces present during the dispersion, including SAF and police, as well as NISS forces and Popular Security Forces or "shadow brigades" (for the deployment of which former vice president Ali Osman Taha and ICC-indictee Ahmad Harun are accused).¹⁹⁰

Various observers also noted that many RSF officers (more than 400 according to Hemetti himself) had been seconded from the SAF since 2017 as well as from NISS since 2013.¹⁹¹ Such seconded NISS and SAF officers, possibly more loyal to the former regime than to Hemetti's stated agenda of supporting the protests, were reportedly among the

186. FIDH and ACJPS, *Will There Be Justice For Darfur?*, *op. cit.*, pp. 18 and 35.

187. See <https://constitutionnet.org/sites/default/files/2019-08/Sudan%20Constitutional%20Declaration%20%28English%29.pdf>.

188. *Sudan Tribune*, "Sudan's investigation committee seeks credible evidence," 26 May 2021; see <https://www.sudanakhbar.com/987336?fbclid=IwAR0PSKYaGn2eHGseF7F8H0IvwtRwuxth5sNWv9raQ9EMdxKVY0E6vUGJCDk> and https://twitter.com/dalia_eltahir/status/1390276474092015619.

189. Mat Nashed, "How a Human Rights Report Could Upend Sudan," *Newlines*, 4 May.

190. Interview with judiciary official, Khartoum, January 2021.

191. Interview with Hemetti, Khartoum, September 2020.

RSF officers involved in the dispersion of the sit-in, and among some of those who were reportedly arrested for their alleged role in the violence.¹⁹² An RSF officer also mentioned that, in 2020 alone, 1,550 cases of people pretending to be RSF were reported – reflecting the fact that some recruits often spend only a short time within the RSF and yet continue to present themselves as RSF after they leave.¹⁹³

According to Hemetti, the public blaming of the RSF for the 3 June 2019 violence is part of a campaign against him orchestrated by his enemies, both military and civilian, in the centre of the country and within the transitional authorities.¹⁹⁴ This suspicion is likely to have been reinforced by the death of 45-year-old protester, Baha-el-din Nouri in RSF custody in December 2020, which sparked demonstrations against the RSF under the guise of “the longest funeral procession in Sudan’s modern history”, in spite of the fact that the RSF officers allegedly responsible for this crime (including one allegedly seconded from NISS) were reportedly immediately surrendered to the police.¹⁹⁵ According to a Darfuri official, the fact that RSF accountability efforts, albeit limited, are “not appreciated by the public”, while similar crimes committed by the police do not generate the same public outcry, risk discouraging such efforts.¹⁹⁶ This situation also illustrates the danger of the frequent instrumentalisation of justice issues by political and military players from all sides, in a context of multiple divides and rivalries which undermined the transition.

Furthermore, outside the work of the 3 June investigation committee, in May 2021, an RSF officer was tried and sentenced to death for killing a protester on 3 June 2019 during demonstrations that immediately followed the breakup of the sit-in.¹⁹⁷ In August 2021, nine RSF members were tried for the killing of six protesters, including four children, in North Kordofan state capital El-Obeid, in July 2019; six of the accused were sentenced to death.¹⁹⁸ As indicated above, in order for those convictions to be pronounced, immunities had to be lifted, which remains extremely rare even since the revolution.

192. *Sudan Tribune*, “Sudan’s investigation committee seeks credible evidence,” *op. cit.*

193. Interview with RSF officer, February 2021.

194. Interview with Hemetti, Khartoum, September 2020. See *Sudan Tribune*, “Hemetti says victim of political machinations despite his role in Sudan’s revolution,” 5 June 2021.

195. *Sudan Tribune*, “Thousands attend funeral of Sudanese detained, killed by RSF militia”, 30 December 2020.

196. Interview with Darfuri official, Khartoum, February 2021.

197. See <https://english.alaraby.co.uk/news/sudanese-officer-sentenced-death-2019-killing-protester>.

198. *Aljazeera*, “Sudan sentences paramilitaries to death for killing protesters,” 5 August 2021, <https://www.aljazeera.com/news/2021/8/5/sudan-sentences-paramilitaries-to-death-for-killing-protesters>.



RSF patrol, October 2020. © Jérôme Tubiana

III. CONTRADICTIONS AND POSSIBLE SOLUTIONS

1. Democratic transition in the centre and peace in Darfur

One of the main contradictions which hampered the Sudanese transition is consubstantial with the revolution and the transition. The protests and the negotiations that led to the transition were dominated by civil society groups and political parties whose leadership largely hails from central Sudan, protracting the feeling of “marginalisation” which led Darfuris and other communities from Sudan’s peripheries to take up arms. Rebels from the peripheries were in principle part of the FFC but were left aside in negotiations between the FFC and the TMC which designed the current transitional arrangements. As a result, prior to the 2021 coup, many Darfuris, both civilians and combatants, felt that the revolution was hijacked by civilian politicians from the centre of the country.

Among those politicians, a common view was that the fall of Bashir, as the individual bearing the greatest responsibility for the war in Darfur, and the ensuing democratic transition, should be sufficient to make the continuation of the conflict unnecessary. That view was not shared in Darfur, which allowed Hemetti to present himself as a representative from Darfur, attempting to enlarge his local support base beyond Arab communities, and to reconcile the non-Arab rebels with the RSF they had once fought. While his efforts at local peacekeeping and peacemaking were undermined by the bias of the mostly Arab RSF troops towards their own communities, Hemetti was successful in initiating peace talks with the rebels which led to the Juba Peace Agreement.

Political actors from the centre, both military and civilian, rightly foresaw in this process an attempt by Hemetti to get closer to the rebels in order to constitute a bloc of the peripheries capable of challenging the political and military hegemony of the centre. Faced with what many of them saw as a danger, actors from the centre therefore tried to undermine this peace process, which they considered to be in contradiction to the constitutional charter they had negotiated. These actors also tried to invite themselves into the talks and regain control. (The constitutional charter included among its duties the achievement of a comprehensive peace process in Darfur and the two areas within six months, a timeline which retrospectively looks unrealistic).¹⁹⁹

The FFC appeared hostile towards the Juba negotiations, but also divided - with the Left particularly hostile, especially the Communist Party until its departure from the coalition, the Umma Party more ambiguous, and the Sudanese Congress Party more open.²⁰⁰

That dynamic makes the Juba Peace Agreement both stronger than former peace agreements (with key decision makers in Khartoum for the first time supporting it) and fragile, because it confirms the division between the centre and the peripheries and makes Hemetti’s enemies in the centre (both civilian and military), adversaries of the peace process.

199. See <https://constitutionnet.org/sites/default/files/2019-08/Sudan%20Constitutional%20Declaration%20%28English%29.pdf>.

200. *Report of the Panel of Experts, op. cit.*, p. 11.

From the perspective of many of the civilian politicians, the Juba Peace Agreement undermines the constitutional charter – which was amended in line with the agreement in November 2020. The Juba Peace Agreement presents itself as taking precedence over other transitional arrangements, but some of the contradictions between both processes might still be difficult to resolve. A few civilian politicians however acknowledge that the constitutional charter has no greater popular legitimacy than the peace agreement: no representatives have yet been elected, and both processes are largely power sharing deals, albeit with different sets of actors.

The peace agreement also contributed to new divisions and opportunistic rapprochements that straddle the usual division between military and civilian components of the transition:

- Divisions within civilian political parties, those with least support in the peripheries being the most hostile to Juba; and some operating an opportunistic rapprochement with non-signatory rebels, with others possibly tempted by another rapprochement with military officers from the centre;
- Divisions between the SAF and the RSF, which reached their peak in mid-2021, over Hemetti's refusal to integrate his forces into the SAF, and are likely to resurface;
- Divisions between the rebels, with some operating a rapprochement with Hemetti, others more interested by an entente with political parties, and some even establishing links with former regime loyalists.

These divergences fuelled the events of October 2021. In the weeks preceding the coup, the SAF and the RSF silenced their differences, while Hamdok failed to reunite the FFC. JEM and SLA-MM opportunistically allied, claiming to form a separate wing of the FFC, demanding the dissolution of the government, and contributing to preparing the ground for the coup. Divisions among the rebels immediately resurfaced in the aftermath of the coup. While JEM, attempting to bring together the remnants of the fragmented Islamists, indeed appeared aligned with the military, Minni backtracked, requesting the liberation of political prisoners. Other Darfur rebel movements, namely the GSLF and SLA-TC, said they opposed the coup, but their respective leaders agreed to be re-instated as Sovereign Council members.

2. ICC dilemmas

In August 2021, there were signs of progress in Sudan's cooperation with the ICC. The Council of Ministers announced its decision to pass legislation to ratify the Rome Statute of the ICC, and the Foreign Affairs Minister reiterated a June 2021 decision by the Council of Ministers to hand over the three ICC indictees imprisoned in Sudan, including former president Omar al-Bashir.²⁰¹ However, as with various other justice-related decisions, in order to take effect these decisions would have had to be approved in a joint meeting of the Council of Ministers and the Sovereign Council. The October 2021 coup, which dissolved both councils, makes that prospect unlikely.

2.a. Five ICC arrest warrants

Despite these decisions by the Council of Ministers and the commitment in the Juba Agreement to support the ICC, as well as successive statements to this effect by various government officials,²⁰² there were still various interpretations within the transitional government on what the role of the ICC should be.

201. See <https://www.facebook.com/109855750397935/posts/593250528725119> and <https://www.france24.com/en/live-news/20210811-sudan-to-hand-bashir-other-wanted-officials-to-icc-minister>.

202. *Ibidem* and *Sudan Tribune*, "ICC will not give up its demands to hand over indicted ex-Sudanese officials," 31 May 2021; *Sudan Tribune*, "ICC prosecutor calls for enhanced cooperation over Darfur cases," 12 August 2021.



Ruins of villages destroyed in 2003/2004, North Darfur, October 2020. © Jérôme Tubiana

In 2005, the UNSC referred the situation in Darfur to the ICC. Between 2007 and 2014, the Court delivered arrest warrants against five suspects:

- Omar al-Bashir, for war crimes, crimes against humanity and genocide;
- Former Defence Minister Abdelrahim Muhammad Hussein, for war crimes and crimes against humanity;
- Former state Minister of Interior Ahmad Harun, for war crimes and crimes against humanity;
- Government-backed militia leader Ali Muhammad Ali Abdelrahman (or “Abd al Rahman”, also known as “Kosheib” or Kushayb), for war crimes and crimes against humanity;
- Rebel commander Abdallah Banda, for war crimes.²⁰³

Except in the case of Abdallah Banda, allegedly responsible for a rebel attack against a base of the African Union Mission in Sudan (AMIS), the arrest warrants focus on crimes committed at the beginning and most intense period of the conflict (2003-2004) in very specific locations, notably in the Wadi Saleh area currently in Central Darfur. The same suspects were however involved in serious crimes before and after this period in various other locations.²⁰⁴

203. FIDH and ACJPS, *Will There Be Justice For Darfur?*, *op. cit.*, p. 68.

204. *Ibid.*, p. 79.

To date, only one of the suspects has been handed over to the ICC: Abd Al Rahman, in June 2020. Likely fearing arrest by the new Sudanese authorities, he had fled to the Central African Republic, where he decided to surrender to the local authorities. In July 2021, an ICC Pre-Trial Chamber confirmed charges against Abd Al Rahman, who will now face trial, although an appeal is ongoing.²⁰⁵ On 8 September 2021 the Chamber of the ICC set the opening of the trial for 5 April 2022.

Prior to Abd Al Rahman's surrender, the three other government suspects, namely Bashir, Hussein and Harun, were arrested when Bashir was toppled in April 2019.²⁰⁶ Abdallah Banda left Sudan for Libya, where his troops are among Darfur rebels fighting alongside Khalifa Haftar's self-styled Libyan National Army.²⁰⁷

Criminal proceedings have also been brought against Bashir, Hussein and Harun before Sudanese courts.²⁰⁸ Bashir, Hussein and former vice-president Ali Osman Taha, together with 24 other defendants, were sued for their role in the 1989 coup that brought Bashir to power. Bashir was also sentenced for corruption-related offences in December 2019.²⁰⁹ Harun, alongside Ali Osman Taha, is accused of having brought paramilitaries known as the shadow brigades from Kordofan, who are alleged to have played a role in the violent dispersion of the sit-in in Khartoum on 3 June 2019. None of the five ICC indictees have been investigated in Sudan for crimes committed in Darfur. However, Attorney General Tajessir al-Hebir claimed: "We reopened investigations for massacres, war crimes and crimes against humanity for old cases in Tawila [a North Darfur town where the UN Darfur task force reported that more than one hundred women and girls were raped by *janjawid* militias under Musa Hilal in March 2004], Shattaya [a South Darfur locality that suffered particularly violent *janjawid* attacks and occupation in February-March 2004, mentioned in the ICC arrest warrant against Bashir], and Tabit [a North Darfur town where more than 200 women and girls were allegedly raped in October 2014]".²¹⁰

2.b. Progress towards cooperation

Progress to enable cooperation between the ICC and the transitional government was as slow as legal reforms. In July 2020, among other legislative reforms, the transitional government enacted amendments to repeal provisions preventing cooperation with the ICC. In February 2021, Sudan and the ICC signed a Memorandum of Understanding, but only covering the Abd Al Rahman case. At the same time, the transitional authorities reportedly also agreed to surrender Bashir to the ICC, but no indications were given on a timeline or on possible decisions regarding the two other suspects detained in Sudan. Then, in June 2021, the Council of Ministers approved the transfer of the three suspects to The Hague. Yet, as indicated above, at the time of writing this decision had to be approved by a joint meeting of the Council of Ministers and the Sovereign Council. There are concerns that Bashir may die in prison due to poor health.

In August 2021, Sudan and the ICC eventually signed a new Memorandum of Understanding covering all indictees.²¹¹ At the same time, the Council of Ministers announced its decision in favour of Sudan's

205. See <https://www.icc-cpi.int/Pages/item.aspx?name=pr1601>; https://www.icc-cpi.int/CourtRecords/CR2021_06131.PDF.

206. FIDH and ACJPS, *op. cit.*, p. 60.

207. Jérôme Tubiana *et al.*, *Diaspora in Despair*, *op. cit.*, p. 27.

208. FIDH and ACJPS, *op. cit.*, p. 60.

209. Waging Peace, *Justice and Accountability in Sudan*, 11 June 2020.

210. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021; ICC, *Situation in Darfur, Sudan, in the Case of the Prosecutor v. Omar Hassan Ahmad Al Bashir ("Omar Al Bashir")*, *Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir*, 4 March 2009; Human Rights Watch, *Mass Rape in Darfur: Sudanese Army Attacks against Civilians in Tabit*, February 2015.

211. *Sudan Tribune*, "Sudan, ICC sign comprehensive cooperation MoU on Darfur cases," 13 August 2021.

ratification of the ICC's Rome Statute, another decision which had to be approved in a joint session of the Sovereign Council and the Council of Ministers.

In February 2021, the Justice Minister had already mentioned plans to join the Rome Statute through a joint meeting of the two Councils, but then noted "different positions" within the cabinet itself.²¹² Another option to approve ratification would be a vote in the Legislative Assembly, but this body is yet to be established.

Within the various components of the transitional government, there indeed remained differing positions regarding the ICC and the issue of surrendering suspects to The Hague. Military officers, including Al-Burhan and other military members of the Sovereign Council, are reportedly still opposed to the ICC and reluctant to surrender Bashir, both because it is seen as undermining the army and hurting national pride, and because some of them fear they could be next on the list of indictees.²¹³ Al-Burhan reportedly suggested that, under the complementarity principle, Bashir could be tried in Sudan with the support of the ICC, an unlikely option which was reportedly still under consideration in August 2021.²¹⁴ In June 2021, he also suggested that there were "ICC proposals to try the wanted people at home", which was denied by then ICC Prosecutor Fatou Bensouda.²¹⁵ Al-Burhan's name was rarely mentioned before he became head of the TMC and then of the Sovereign Council, but since then, Darfuri witnesses interviewed for this report recalled that he played a crucial role as a Military Intelligence officer and commissioner in West Darfur at the beginning of the conflict.

Among civilian members of the Sovereign Council, Mohamed al-Ta'aishi reportedly pushed for the surrender of Bashir, Harun and Hussein to the ICC. He however considered the ICC's jurisdiction should be limited to the five existing arrest warrants. The Justice Minister also stated that the ICC will be allowed "to come to Sudan to investigate current cases".²¹⁶ Similarly, the Attorney General stated that, "Sudan has an international obligation to comply with UNSC resolutions and thus to cooperate with the ICC", notably to allow the court's investigations on the ground, but that "the ICC will limit itself to its [existing] arrest warrants".²¹⁷ ICC prosecutors reportedly assured officials they have no willingness or capacity to expand their investigation beyond the five current indictees.

In June 2021, former West Darfur governor Jaffar Abdelhakam was reportedly arrested for his alleged role in the same crimes as those allegedly committed by Ali Abd Al Rahman "Kosheib" in 2003-2004.²¹⁸ In September 2021, Abdelhakam reportedly appeared as a witness before the ICC in a video hearing. As there is no ICC arrest warrant against him, Sudan could try him on its territory and thereby demonstrate its ability and willingness to try such suspects – although this would prevent the ICC from trying a key suspect.

Al-Hebir also mentioned the need to clarify "issues related to exchange of information and the magnitude of the cooperation". Abdelbari argued that the ICC should take into account the transition's "delicate" political context and consult the Sudanese government before making decisions, even suggesting that they should make decisions jointly.²¹⁹ The political context, as well as the divergent opinions within transitional authorities, likely explained delays regarding cooperation with the ICC and the surrender of the three suspects, which the October 2021 coup will likely complicate further.

212. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

213. *Sudan Tribune*, "ICC prosecutor calls for enhanced cooperation over Darfur cases," *op. cit.*

214. *Ibidem*.

215. *Sudan Tribune*, "Press Sudan to surrender Haroun, Bensouda tells Security Council", *op. cit.*

216. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

217. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

218. See <https://www.darfur24.com/en/2021/06/11/former-central-darfur-state-governor-arrested-and-transferred-to-khartoum/>.

219. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

2.c. The sensitive issue of surrendering Bashir and two close associates

According to Justice Minister Nasreddin Abdelbari “there are different options”, and the surrender of the three suspects should not be excluded, as “it’s the demand of many victims in Darfur”. He considered this “the easiest option”, but argued that the role of the ICC and the slow pace of its proceedings risk preventing the same suspects from being tried in Sudan for other crimes, including corruption-related offences (to date, only Bashir has been prosecuted for such offences and has already been sentenced) and in relation to the killing of protesters in Khartoum before Bashir’s fall (for which none of the three suspects have been tried). Abdelbari suggested that the suspects could be tried in Sudan for such cases before being surrendered to the ICC or tried by the ICC before being sent back to Sudan.

Among options to avoid surrendering the suspects to The Hague, the Justice Minister mentioned:

- ICC trials in a third country;
- ICC trials in Sudan itself, although he admitted it would raise problems of resources and infrastructure, as well as security and political issues which cannot be solved in the short term;
- Domestic trials meeting international standards, raising the same problems as the previous option, as well as concerns as to the ability of Sudanese judges to meet such standards;
- A hybrid court with African Union or UN support, and the ICC as observer only. (In fact, States, not courts, have the competence to establish international or hybrid courts, and the Rome Statute does not allow the ICC to establish a hybrid court with a government or to act as an observer, but the ICC could cooperate with, and provide assistance to such a court, as well as monitor proceedings from afar).

The Justice Minister considered the last possibility to be the most practical option.²²⁰ In October 2020, Prime Minister Abdallah Hamdok also reportedly suggested the (unlikely) establishment of a hybrid court composed of ICC and Sudanese judges. Similarly, the Attorney General mentioned, as alternative options, a hybrid court, domestic trials and trials in a third country. He considered that the decision should be taken by a joint session of the Council of Ministers and the Sovereign Council.²²¹ The military remained reluctant to surrender the suspects, preferring domestic trials.

Darfur rebel leaders are divided on the issue. Some have suggested “a Sudanese court supported by ICC or UN experts”, an international tribunal based on the models of those for Rwanda or the former Yugoslavia (ICTR and ICTY created by the UN Security Council and located respectively in Tanzania and The Netherlands), or a hybrid court such as that in Cambodia (ECCC created by the UN and the Cambodian government, composed of Cambodian and international staff, and located in Cambodia itself).²²² Minni Minawi has rejected these various options, considering that they are all more “complicated” than the surrender of the suspects to the ICC, which is only made complex by “the political situation”.²²³

Under international law, despite not yet being a State Party to the Rome Statute, Sudan is required to comply with UNSC Resolution 1593 of 2005 referring the Darfur situation to the ICC and hence to cooperate with the Court and surrender the three suspects, unless it can challenge the admissibility of the cases before the ICC, by showing that it is able and willing to investigate, or is already investigating the same facts in relation to which the arrest warrants were issued. This does not prevent Sudan from establishing other venues, including a hybrid court, but it is unlikely it would be an alternative to surrendering the three suspects currently subject to ICC arrest warrants.

220. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

221. Interview with Attorney General Tajessir al-Hebir, Khartoum, January 2021.

222. Interviews with signatory rebels, Khartoum, February 2021.

223. Interview with SLA-MM chairman Minni Minawi, Khartoum, February 2021.

2.d. From the Juba Peace Agreement to the IDP camps: strong Darfuri support for the ICC

There are also various opinions regarding the Juba Agreement's provisions on the ICC. As mentioned above, the agreement states that the parties "commi[t] to Security Council Resolution 1593 of 2005, which referred the Darfur situation to the ICC", and to "full and unlimited cooperation with the ICC concerning persons for whom arrest warrants have been issued (...) facilitating the appearance of those wanted before the ICC".²²⁴ The second provision suggests cooperation limited to the five individuals in respect of whom arrest warrants were issued. As mentioned above, this was also the interpretation shared by government negotiator Mohamed al-Ta'aishi, the Justice Minister and the (former) Attorney General, as well as, among signatory rebel leaders, Jibril Ibrahim, now Finance Minister.²²⁵ Al-Ta'aishi and Al-Hebir indicated that, except for the five individuals subject to ICC arrest warrants, alleged perpetrators of international crimes should be tried by the Special Court for Darfur provided for under the Juba Agreement. In addition, Abdelbari considered the word "appearance" indicated that Sudan "cannot force the indictees to go to the ICC" and that only "those willing to appear" could be surrendered.²²⁶ In contrast, Minawi's interpretation is that under the UNSC resolution mentioned in the agreement Sudan is obliged to provide unlimited cooperation to the ICC, including but not limited to the execution of the existing arrest warrants, until the Court itself considers its task complete.²²⁷

The issue of the suspects' willingness to appear before the ICC was clearly revealed as an excuse when, in May 2021, one of the three suspects detained in Khartoum, Ahmed Harun, stated he was willing to be tried by the ICC rather than in Sudan.²²⁸ ICC Prosecutor Bensouda then requested his handover in vain.²²⁹

The Justice Minister's claim that "victims in Darfur" demand that suspects are surrendered to the ICC was confirmed by interviews conducted in Darfur for this report. The IDP population generally considers justice to be a main priority and even a prerequisite for peace. They do not consider that the Juba Agreement will bring peace until those responsible for the crimes are brought to justice. Furthermore, despite the recent political changes, IDPs and victims continue to lack confidence in the capacity of the Sudanese justice system or the mechanisms established by the Juba Agreement to deliver justice. Demands for the surrender of suspects to the ICC were among those raised at many sit-ins and protests that have taken place in Darfur since 2019. They were strongly reiterated in early June 2021, when ICC Prosecutor Bensouda visited Darfur and received a particularly warm welcome within IDP camps.²³⁰

Here it should be noted that when referring to "suspects", many Darfuris do not mean only those subject to existing ICC arrest warrants. Indeed, many do not seem well informed in relation to the ICC's proceedings and confuse the arrest warrants issued with the confidential "list of 51" suspects established by the 2005 UN Commission of Inquiry on Darfur and provided to the ICC. The ICC's investigations have not focused on the names on the "list of 51". Another common confusion is between the ICC indictees and the list of four individuals sanctioned by the UNSC (only three of them remain alive, including historical *janjawid* leader Musa Hilal), against whom limited travel ban and asset freezing measures were imposed but remained largely unimplemented by Sudan and other States.

224. Juba Peace Agreement, *op. cit.*

225. Interview with JEM chairman Jibril Ibrahim, Khartoum, February 2021.

226. Interview with Justice Minister Nasreddin Abdelbari, Khartoum, February 2021.

227. Interview with SLA-MM chairman Minni Minawi, Khartoum, February 2021.

228. See <https://www.middleeastmonitor.com/20210506-sudan-bashirs-first-deputy-prefers-icc-to-darfur-court/>.

229. *Sudan Tribune*, "Press Sudan to surrender Haroun, Bensouda tells Security Council", *op. cit.*

230. See <https://twitter.com/intlcrimcourt/status/1398918484604633090?s=12>.



Kirinding Camp IDPs building shelter, El-Geneina theatre IDP Gathering site, El-Geneina, West Darfur, February 2021. © Jérôme Tubiana

Hilal's cases

Musa Hilal is the *nazer* (paramount traditional chief) of the Mahamid Rizeigat Arab community in North Darfur and was the top commander of the government-backed *janjawid* militias in North Darfur at the most intense period of the conflict, between 2003 and 2005. From 2005 onwards, he began to distance himself from the Bashir regime and to build ties with various rebel groups, until he eventually created his own opposition political-military movement under the name of Sudanese Revolutionary Awakening Council (SRAC, or *Sawa* in Arabic). He then increasingly openly challenged the Bashir government's authority, in particular his junior rival Hemetti, who, benefitting from Hilal's aggressivity towards the regime, had succeeded in becoming the leader of the RSF (Hilal and Hemetti belong to the two main sections of the Rizeigat tribe, respectively the Mahamid and the Mahariya). After Hilal refused the disarmament of the Border Guard paramilitaries under his control, the RSF arrested him in his stronghold of Misteriha, in North Darfur, in November 2017, along with several hundred of his Border Guard forces.²³¹ The arrest reportedly resulted in seven to nine deaths on Hilal's side and 15 to 18 deaths among the RSF, including Hemetti's close relatives, notably his cousin and brother-in-law Abderrahim Juma'.²³²

Hilal and several of his sons subsequently stood trial before a military court composed of SAF judges in two cases. The first related to the killing of RSF soldiers by SRAC troops while resisting arrest. The second case related to attacks, allegedly by militias under Hilal, on CRP forces (belonging to the Meidob non-Arab tribe of North Darfur), during which 14 CRP members were killed in the area of Kebkabiya, North Darfur, in 2014.²³³

Hilal was not charged with any crime committed against Darfuri civilians.²³⁴ There had reportedly been plans to try Hilal in a third, much more sensitive case – that of the mass rapes in Tawila, where, as mentioned above, more than one hundred women and girls were raped by *janjawid* militias led by Hilal in March 2004. A file was constituted but the case was not pursued, reportedly because of the risk of implicating other former regime officials.

Hilal and 19 of his relatives were detained in SAF's Military Intelligence cells, where they were denied visits, including from lawyers, until the beginning of their trial in June 2018. After Bashir's fall (and Hemetti's rise as deputy head of the TMC), they were taken to an RSF garrison, handed over to NISS, then again isolated in Military Intelligence cells. By April 2020, following rumours the SAF wanted to release Hilal to use him against Hemetti, the detainees were again transferred to the RSF, with better treatment.²³⁵ Competing with the SAF, Hemetti and his brother Abderrahim then engaged in a tribal reconciliation process with Hilal. This eventually led the military court to drop charges against Hilal and the Sovereign Council granted a pardon, allowing his release and that of his relatives in March 2021.²³⁶

231. Redress and PLACE, *op. cit.*

232. Interviews with Hemetti, Khartoum, September 2020; with SRAC leader, and with counsel, Khartoum, February 2021.

233. *Report of the Panel of Experts, op. cit.*, p. 16.

234. Redress and PLACE, *op. cit.*

235. *Report of the Panel of Experts, op. cit.*, p. 16.

236. Redress and PLACE, *op. cit.*

To obtain Hilal's release, Hemetti reportedly paid *diya* (SDG 500,000, approximately USD 1,600, per victim) to the heirs of the CRP victims, on behalf of Hilal, which led to the withdrawal of their complaint.²³⁷ The move, including the payment of blood money, was described as in line with transitional justice processes.²³⁸ According to Hilal's close associates, "lawyers only gave a legal dressing" to those negotiations.²³⁹ Hilal's defence argued that both cases against Hilal should be resolved by "social mechanisms" or traditional reconciliation mechanisms, principally the payment of *diya* to the heirs of the deceased.²⁴⁰ They highlighted that the victims of the clashes in Misteriha belonged to the same Rizeigat tribe, which should encourage "social reconciliation". In relation to the case of the killing of the Meidob CRP, they argued that a statutory justice solution could lead to further tribal conflict – Hilal could be executed, allowing the Mahamid to seek revenge over the Meidob; and the Meidob, a powerful non-Arab community, could also seek revenge against the Mahamid if no *diya* was paid to them. That argument highlights the fact that traditional justice mechanisms, even where they have proven efficient in the past, are distorted by the current imbalance between heavily militarised communities and others. According to this reasoning, traditional justice mechanisms would be the only non-violent solution when one of those militarised communities is involved. After proceedings against Hilal were closed and as no other criminal case remained pending against him, there were concerns that he could benefit from the amnesty promulgated following signature of the Juba Peace Agreement.²⁴¹

Beyond the judicial issues, Hilal's release was reportedly based on a political agreement with Hemetti, according to which SRAC forces should stop any military action and be disarmed or integrated to the RSF, while Hilal should give political support to the RSF and Hemetti, and back Hemetti's efforts in favour of tribal reconciliation in Darfur. In exchange, Hemetti should pay, in addition to the *diya* in the CRP case, compensation money for Hilal's imprisonment and future expenses for his (unarmed) activities in Darfur. Such payments may constitute violations of the UNSC asset freeze sanctions against Hilal.

SRAC supporters doubt Hilal will fully respect the agreement and that the reconciliation will last. They also warn that the agreement concerns only Hilal and not necessarily all his supporters, and that he may thus lose support as a result of the deal. "We will not link all our problems to his release. (...) The imprisonment of Hilal united the Mahamid, his release may divide them. Since the reconciliation process [between Hemetti and Hilal began], divisions increased among the Mahamid. Not every Mahamid will follow Hilal: politically, this agreement will burn him".²⁴² SRAC forces, largely based in Libya, are instead hoping to open their own negotiations with the Sudanese government, regardless of the deal between Hilal and Hemetti.

237. Interview with SRAC members, Central Darfur, February 2021.

238. Redress and PLACE, *op. cit.*

239. Interview with SRAC leader, Khartoum, February 2021.

240. Interview with counsel, Khartoum, February 2021.

241. Redress and PLACE, *op. cit.*

242. Interview with SRAC members and leader, Khartoum and Central Darfur, February 2021.

3. Differing views on justice and multiplicity of provisions

3.a. Moving from confusion to complementarity between different provisions on justice

Different perceptions on the Darfur peace process go hand in hand with different perceptions on justice for crimes committed in Darfur. Unsurprisingly, SAF officers may be reluctant to implement security arrangements which are supposed to lead to the integration of rebels into all security forces and to comprehensive security sector reform with a view to establishing a truly national army. The same SAF officers may also be reluctant to surrender suspects to the ICC, fearing subsequent trials or investigations may target them.

As mentioned above, rebel signatories to the Juba Agreement also have different interpretations regarding the agreement's justice provisions, with Minni Minawi supporting extended cooperation with ICC, Jibril Ibrahim (like several top government officials) considering that the ICC should limit itself to its existing arrest warrants, and others even suggesting there should be alternatives to surrendering suspects.

The Juba Agreement appears to support a mix of various possible justice solutions, from the ICC to transitional justice, but, as noted above, without providing clear mechanisms to divide labour between different avenues and institutions – not to mention alternative solutions to the ICC supported by various officials. Several officials, including Mohamed al-Ta'aishi and Attorney General Tajessir al-Hebir, as well as Jibril Ibrahim, suggest that except for the five existing ICC arrest warrants, all other cases of “international crimes, war crimes, crimes against humanity, genocide” should be referred to the Special Court for Darfur to be established under the Juba Agreement.²⁴³ Less serious crimes should be tried before the domestic judiciary, or, in the case of the least serious crimes, by traditional justice mechanisms, while land disputes should be referred to the Darfur land commission.

This still leaves room for confusion and various interpretations, meaning that different options are still open to negotiations. The Juba Agreement also has transitional justice provisions, which the future transitional justice commission and law will have to implement. Further, traditional justice and reconciliation mechanisms, in particular the *judiya* process historically used to mediate or arbitrate all kinds of disputes, notably in relation to land, are still popular and anchored in Darfur to such an extent that they are sometimes described as a symbol of the Darfuri identity.²⁴⁴ Much like the traditional administration, it was however largely distorted by the former regime's habit of pretending to resolve all conflicts through well-orchestrated conferences between tribal leaders mostly at the service of the ruling party, rather than using neutral *ajawid* or mediators.

As noted by various informants, perpetrators and their communities often try to avoid accountability by using traditional reconciliation mechanisms based on payment of compensation money, as was the case following recent violent episodes in West Darfur and during the negotiations that led to Musa Hilal's release. They may often advocate for transitional justice, but in minimal form, seen as including traditional reconciliation mechanisms but excluding accountability.

243. Interviews with Jibril Ibrahim, Mohamed al-Ta'aishi and Tajessir al-Hebir, Khartoum, January-February 2021.

244. Jérôme Tubiana *et al.*, *Traditional Authorities' Peacemaking Role in Darfur*, *op. cit.*



Wakheim water station was a crucial staging point for both Arab and Zaghawa nomads at the edge of the Sahara. It was controlled by Zaghawa rebels between 2003 and 2015. Arab *janjawid* militias, including under Hemetti's leadership, attacked it several times and destroyed the station. Since 2015, Arab nomads have returned to the area. North Darfur, October 2020. © Jérôme Tubiana

3.b. Addressing demands for both peace and justice

This is unlikely to fully satisfy the expectations of IDPs and victims. As mentioned above, many non-Arabs all over Darfur appear to reject the peace agreement, although their main demands (security, expulsion of those occupying others' land, disarmament of militias, surrender of criminals to the ICC and compensation to victims) are in principle addressed by the agreement. Many simply do not believe the relevant provisions will be implemented.²⁴⁵

As a Fur traditional chief underlined: "Reconciliation is meaningless since criminals are still there and weapons are still there: we need disarmament, land and what has been taken from us to be given back to us, and perpetrators to be held accountable."²⁴⁶ Here it should be noted that many non-Arabs do not have a radical interpretation of customary land rights. As a Masalit self-defence leader stated, "We accept anyone on our land, even Arabs, if they don't dispute this land is ours".²⁴⁷

245. Interviews with residents and IDPs, North, West and Central Darfur, October 2020 and February 2021.

246. Interview with Fur traditional leader, location withheld, February 2021.

247. Interview with Masalit self-defence leader, El-Geneina, February 2021.

The old, ongoing debate between peace and justice has survived Bashir's fall. Under Bashir's rule, many thought justice demands would complicate the peace process and even strengthen the regime. While the argument was less relevant after Bashir's fall, justice remained sensitive since the transition rested on a fragile power sharing deal involving military leaders from the former regime. Both senior officers and militarised communities participated in tacit blackmail – threatening to wage war or to spoil peace efforts if justice efforts were to endanger their interests – or proposing an exchange between justice and peace. The 2021 coup, possibly partly triggered by accountability concerns, was a stark reminder of the risks at stake. The common argument, “no peace without justice”, is not a sufficient counterargument and there is therefore no doubt that judicial institutions, including the ICC, should consider the peace and security context. In the meantime, it is worth remembering that, continuously during Sudan's wars, demands for “justice” have given the word a broader meaning than criminal justice, encompassing notions of “fair” government that would treat all Sudan's citizens equally, regardless of their regional, ethnic or religious differences.

CONCLUSION

Many of our Darfuri interlocutors described the continuous violence in Darfur as a sign that Bashir's fall did not bring about any change outside Khartoum. Indeed, armed Arabs, whether they are members of official paramilitary forces or known under the old label *janjawid*, are still occupying lands in various areas, preventing non-Arab residents from returning to their land to live or even to farm, and from leaving the camps or villages where they have taken refuge. The same armed Arabs have also continued to repeatedly attack non-Arab villages and IDP camps, burning and pillaging them, using violence that recalls the beginning of the conflict and its most intense period in 2003-2005. Massive attacks have been regularly taking place as retaliatory reactions to small scale incidents which should have been easily addressed by security forces and the judiciary. In various violent events, there were signs that armed Arab communities felt emboldened since Bashir's fall by the rise of Hemetti, the RSF commander and one of their kinsmen. The pre-eminence of the RSF as the dominant military actor in Darfur appears to confer a further degree of impunity on Arab communities. Accusations that the RSF were directly involved in violence against non-Arabs, or at least gave support to or were biased towards Arab communities, fed fears that the central government was satisfied by turning Darfur into an area under RSF custody.

But the reality is more complex. In fact, the RSF's pre-eminence also means that they have been the main, if not the only, force able to intervene to stop the violence in Darfur, whether on their own or jointly with other government forces, and likely in the future with rebel signatories to the Juba Agreement. Despite apparent tribal bias, the RSF have repeatedly intervened to stop violence, although often only after several days, allowing for further serious crimes to be committed before their intervention. Hemetti himself, in spite of his obvious tribal loyalties, has also repeatedly stated his commitment to having the RSF play a peacekeeping and peacemaking role in Darfur, as well as to implementing the peace agreement by expelling those occupying others' land to allowing the return of the displaced. Whether his sincerity – seriously undermined by his role in the October 2021 coup – is believed or questioned, Darfur Arab communities also felt threatened by that message and by the Juba Agreement's provisions. In the meantime, the revolution allowed non-Arab IDPs to be more vocal in their demand for peace, justice and the restitution of their original lands. Violent attacks by armed Arabs targeted sit-ins where those demands were voiced. As the transitional government failed to protect non-Arab civilians, some even began to mobilise tribal militias again. Thus change has taken place within Darfur since Bashir's fall, and that change has also been one of the factors in the new violence.

Given the growing uncertainty since October 2021, tensions, in particular in West Darfur, should be expected to continue. Attempts by the various poles of power in the centre to obtain constituencies in Darfur, with the perspective of future power struggles, also fed conflict. Competing attempts by various transitional leaders to secure support among opponents, including armed groups, from Darfur, have brought to light new rivalries within the transition: between Hemetti and the FFC, between Hemetti and the army and within the FFC themselves. This puts crucial but conflicting issues on the transition's agenda: the fair representation of Darfur and other peripheries within the central government, the future of the armed forces from the peripheries, and the question of justice for crimes committed in

the peripheries. Rather than being exploited for the purpose of political rivalries, those issues should be tackled in constructive discussions inclusive of civil society actors, including Darfuri victims and survivors.

While it cannot be denied that changes have taken place since Bashir's fall, it is evident that disagreements within the transitional authorities on the direction and pace of such change put the whole transition at risk, ultimately contributing to the October 2021 coup, and fuelling continuous violence in Darfur. With international pressure, the democratic transition must resume and transitional authorities should urgently put their divisions aside and prioritise peace and justice in Darfur. Otherwise, the revolution's slogan of "freedom, peace and justice" will remain a broken promise.

RECOMMENDATIONS

1.To the Sudanese Authorities:

1.1 To urgently address the ongoing national crisis, the Sudanese military should:

1. Restore the constitutional order, the civilian-led transitional government and the Sovereign Council as they were before 25 October 2021;
2. Immediately release all political prisoners.

1.2 To urgently address the ongoing violence in Darfur, the Government should:

1. Swiftly deploy neutral forces (without members from communities involved in the conflict) when violence erupts, including when other government forces are involved;
2. Suspend any military or civilian government official suspected of involvement in attacks on civilians pending the outcome of effective and transparent investigations;
3. Indict and prosecute all suspects involved in recent violence in Darfur in fair proceedings, complying with international fair trial standards;
4. Lift immunities on all members of the security forces against whom arrest warrants are issued;
5. Accelerate the pace of implementation of the Juba Peace Agreement's security arrangements, including by: completing the formation of the joint force composed of government and signatory rebel forces, and deploying it to places where violence is expected to occur or recur, notably West Darfur; integrating rebel forces into government forces and initiating a genuine process of Disarmament, Demobilisation and Reintegration (DDR) of rebel forces and government-backed militias; developing plans for Security Sector Reform (SSR) with a view to constituting truly national regular forces, with the full participation of political actors and civil society, with monitoring by the relevant regional and international bodies, and in accordance with international human rights law and best practices; and, in order to fully achieve the SSR process mentioned above, by completing the full transformation of the Rapid Support Forces (RSF) into a professional, inclusive and accountable force integrated into the Sudanese Armed Forces (SAF);
6. Provide training to the SAF, the RSF, police forces and rebel groups on humanitarian and international human rights law and standards.

1.3 On accountability mechanisms for international crimes, the Government should:

1. Fully cooperate with the International Criminal Court (ICC) in line with the Court's existing jurisdiction in the Darfur situation as referred to it by UNSC Resolution 1593 (2005) and immediately surrender all suspects against whom the Court has issued, or issues arrest warrants; fully cooperate with ICC investigation teams, including by providing them with unrestricted access to Darfur and to the former regime's senior officials and archives;
2. Ratify the Rome Statute of the ICC;
3. Ratify the UN Convention on the Elimination of All Forms of Discrimination Against Women without reservation and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) without reservation;

4. In the framework of broad legal reform, restrict powers to arrest and detain to regular police forces, and criminalise arbitrary arrest and detention, enforced disappearance and torture; amend powers of arrest without order or warrant from the judiciary, granted to the new Internal Security Agency in the relevant April 2021 bill;
5. Remove immunity provisions for security forces – in particular for violations of international human rights or humanitarian law – that remain enshrined in various laws, including within the Armed Forces Act (2007), the Police Act (2008) and the National Security Act (2010), and that are envisaged in the April 2021 Internal Security Apparatus bill;
6. Clarify the extent of the amnesty provision decided after the Juba Agreement, in order to ensure that it is restricted to signatory rebels and does not cover any war crimes, crimes against humanity or crime of genocide, or anyone suspected of such crimes;
7. Repeal provisions under Sudan's Constitutional Charter for the 2019 Transitional Period which provide for restrictions on the retrospective application of criminal law, including Article 51(4);²⁴⁸ and clearly state in national legislation that international crimes cannot be subject to prescription;
8. Ensure that there is an explicit provision in Sudanese law providing for command/superior responsibility as a mode of liability so that commanders and superiors are held accountable for crimes committed by subordinates under their effective control;
9. Carry out structural reforms to the judiciary, aiming in particular at ensuring its independence from any political interference;
10. Ensure that all justice mechanisms, including transitional justice mechanisms, adopt a victim-centred approach and enable survivors and affected communities to have a core role in the design and implementation of accountability and transitional justice decisions; guarantee the rights of victims and witnesses to protection, through all stages of court and transitional justice processes;
11. Enforce transitional justice mechanisms as provided for under both the Transitional Justice bill and the Juba Agreement, ensuring coordination between the different agreed transitional justice provisions, and complementarity between truth-seeking mechanisms and criminal justice proceedings; ensure that all alleged perpetrators of international crimes and other serious human rights abuses are prosecuted through criminal judicial proceedings; ensure transitional justice mechanisms are based on broad consultations with inclusion of civil society, including Darfuri victims and survivors in Sudan and refugees abroad;
12. Promote, within transitional justice initiatives, traditional justice mechanisms, including the *judiya* process of arbitration, mediation, compensation and reconciliation, especially for resolving disputes related to traditional land tenure and administration systems; ensure such processes do not contradict demands for accountability and criminal judicial proceedings; refrain from government interference in traditional mechanisms;
13. Propose the recognition of the *judiya* process by the United Nations Education, Scientific and Cultural Organisation (UNESCO) as World Intangible Heritage.

2. To the United Nations Security Council (UNSC) and Member States, the United Nations Human Rights Council (UNHRC), and the newly formed United Nations Integrated Transition Assistance Mission in Sudan (UNITAMS)

- 2.1. Establish an independent international investigation committee into violence committed in West Darfur since 2019 and into human rights violations committed in relation to the October 2021 coup;

248. See <https://constitutionnet.org/sites/default/files/2019-08/Sudan%20Constitutional%20Declaration%20%28English%29.pdf>.

- 2.2. Ensure that UNAMID team sites and assets are not handed over to military forces or pillaged, but used for the benefit of civilian communities in the long term;
- 2.3. Ensure robust UN monitoring and public reporting on the human rights situation in conflict areas and throughout the country and on the ability of government forces (including the joint government-rebel forces for Darfur) to protect civilians, at least until credible elections take place and peace is consolidated nationally;
- 2.4. Support research on traditional justice mechanisms in Darfur in order to facilitate their inclusion into transitional justice processes;
- 2.5. Support the ICC process on Darfur and encourage States, including Sudan, to fully cooperate with the Court.

3. To Sudan's International Partners, the "Friends of Sudan" group and the Juba Peace Agreement's international guarantors and witnesses, including the United Nations, the African Union, the League of Arab States, the European Union, the United States, the United Kingdom, the United Arab Emirates, Saudi Arabia, Egypt, Qatar, South Sudan and Chad

- 3.1. Coordinate to support, including through economic and targeted sanctions, the return to the planned transition to civilian, democratic rule; in particular, until a full SSR process has not taken place, the EU and Member States should not continue, resume or envisage cooperation with Sudanese government forces on fighting irregular migration, as initiated under the Bashir regime notably in the framework of the regional Khartoum Process; they should also establish accountability measures and conduct an investigation into whether EU funding and training provided as part of the Khartoum Process have contributed to human rights violations, specifically in the context of the 2018-2019 uprising and the October 2021 coup; and respond to the serious concerns expressed over the impact of actions of the EU and its Member States in funding and cooperating with external actors accused of systematic and severe human rights violations such as the Police, the Central Reserve Police or the Border Guards;
- 3.2. Support, politically and financially, prompt implementation of the Juba Agreement, in particular crucial security arrangements and justice provisions.

4. To the International Criminal Court (ICC):

- 4.1. Continue to investigate crimes committed in Darfur, not limited to the early stages of the conflict, but including recent violent episodes as well as crimes committed during the events related to Omar al-Bashir's fall and the October 2021 coup;
- 4.2. Encourage States to cooperate with the Court and support the transfer by the Sudanese authorities of the suspects subject to outstanding ICC arrest warrants in order for them to be tried at the International Criminal Court;
- 4.3. Encourage and support national proceedings for accountability, including through the potential creation and establishment of a Special Court for Darfur, in application of the principle of complementarity;
- 4.4. Conduct public information and outreach activities in Darfur, aimed at ensuring accurate understanding of the Court's mandate, ongoing investigation and victims' participation in ICC proceedings;
- 4.5. Encourage the Trust Fund for Victims to engage in a process to identify, design and launch assistance programmes for victims of international crimes committed in Darfur, including for IDPs and refugees in neighbouring countries, adopting a 'do no harm' and victim-centred approach.



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ACJPS is dedicated to creating a Sudan committed to all human rights, the rule of law and peace, in which the rights and freedoms of the individual are honored and where all persons and groups are granted their rights to non-discrimination, equality, and justice.

The organisation runs three mutually reinforcing programmes of work to achieve an improvement in the human rights situation in Sudan:

- i) Human rights monitoring programme to document human rights violations and identify individuals at risk or situations of concern, operating as an early warning mechanism;
- ii) Legal programme to conduct legal research, protect individuals at risk and conduct strategic litigation in pursuit of effective remedies for victims of human rights violations and legal reform;
- iii) Advocacy programme to publish and disseminate evidence-based advocacy materials and influence domestic, regional and international policy-makers to improve the human rights situation in Sudan.

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