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REDRESS

Ending torture, seeking justice for survivors



SOAS
University of London

RUINING A COUNTRY, DEVASTATING ITS PEOPLE

Accountability for serious violations
of international human rights and
humanitarian law in Sudan since
15 April 2023

September 2023



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DEFINITIONS

<u>ACHPR</u>	The African Charter on Human and Peoples' Rights
<u>Al-Burhan</u>	General Abdel Fattah al-Burhan (General Commander of the Sudanese Armed Forces and Chair of the Sovereign Council)
<u>AP I - II</u>	The two Additional Protocols of 1977 to the four Geneva Conventions of 1949, respectively
<u>CA 1991</u>	The Criminal Act 1991
<u>CIHL</u>	The International Committee of the Red Cross' Customary International Humanitarian Law Database
<u>CIL</u>	Customary international law
<u>CSO</u>	Civil society organisation
<u>CVAW</u>	The Combating Violence Against Women Unit (a Sudanese State body tasked with promoting women's rights and combating gender-based violence)
<u>DBA</u>	The Darfur Bar Association
<u>Declaration</u>	The Jeddah Declaration of Commitment to Protect the Civilians of Sudan, signed by the Sudanese Armed Forces and the Rapid Support Forces on 11 May 2023
<u>Elements of Crimes</u>	The Elements of Crimes for the International Criminal Court
<u>GC I - IV</u>	The four Geneva Conventions of 1949, respectively
<u>Genocide Convention</u>	The Convention on the Prevention and Punishment of the Crime of Genocide
<u>Hemedti</u>	General Mohamed Hamdan Dagalo (Commander of the Rapid Support Forces and former Vice Chair of the Sovereign Council)
<u>ICC</u>	The International Criminal Court
<u>ICCPR</u>	The International Covenant on Civil and Political Rights
<u>ICC Statute</u>	The Rome Statute of the International Criminal Court
<u>ICESCR</u>	The International Covenant on Economic, Social and Cultural Rights
<u>ICL</u>	International criminal law
<u>ICPPED</u>	The International Convention for the Protection of All Persons from Enforced Disappearance

<u>ICRC</u>	The International Committee of the Red Cross
<u>ICTY</u>	The International Criminal Tribunal for the former Yugoslavia
<u>IDP</u>	Internally displaced person
<u>IGAD</u>	The Intergovernmental Authority on Development (an eight-country trade bloc in Africa)
<u>IHL</u>	International humanitarian law
<u>IHRL</u>	International human rights law
<u>MSF</u>	Médecins Sans Frontières
<u>NIAC</u>	Non-international armed conflict
<u>NISS</u>	National Intelligence and Security Services
<u>OCHA</u>	The United Nations Office for the Coordination of Humanitarian Affairs
<u>OHCHR</u>	The Office of the United Nations High Commissioner for Human Rights
<u>RSF</u>	Rapid Support Forces
<u>SAF</u>	Sudanese Armed Forces
<u>SCO</u>	Sudan Conflict Observatory
<u>SSR</u>	Security sector reform
<u>Tupac</u>	Mohamed Adam, a Sudanese activist who was arrested on 15 January 2022 charged with involvement in supposedly killing a police brigadier general
<u>UNCAT</u>	The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

EXECUTIVE SUMMARY

On 15 April 2023, an armed conflict erupted in Sudan between the Sudanese Armed Forces and the Rapid Support Forces. The conflict – which remains ongoing as of 11 September 2023 (time of writing this report) – has caused unprecedented devastation, particularly in Khartoum, Darfur, North and South Kordofan, as well as other parts of Sudan. Recent estimates indicate that at least 4,000 people have been killed, though the true figure is likely to be much higher. Around 5 million people have been forcibly displaced, many to neighbouring Egypt, Chad, and South Sudan.

The fighting, much of which has taken place in residential neighbourhoods, has significantly exacerbated Sudan's humanitarian crisis. Around half of Sudan's population is now in urgent need of humanitarian aid and protection. Healthcare systems in Khartoum and Darfur are either non-functioning (many have been out of service since the early days of the conflict) or on the verge of collapse. Shortages of food, water, energy, and medical supplies are commonplace.

Some aid has been delivered to affected communities, owing, particularly during the early stages of the conflict, to the rapid mobilisation of Sudan's resistance committees. While a handful of aid organisations have since retained a working presence in Sudan despite the atrocities, their activities have largely been constrained by obstructive bureaucracy, targeted violence and looting, as well as the centralisation of aid delivery – which mostly flows from Port Sudan and is therefore onerous to transport to the areas worst affected by the conflict (e.g., Darfur).

Amidst the fighting, there is a large body of credible (and evolving) *prima facie* evidence implicating both sides in the commission of serious human rights abuses and possible war crimes, including mass arbitrary detention, torture, enforced disappearance, rape and other sexual and gender-based violence, intentionally targeting civilians and protected objects, and hostage-taking. There are reasonable grounds to conclude that some of the patterns of violations being reported constitute crimes against humanity. There are also credible accounts of conduct in Darfur that could possibly amount to genocide.

There are various ongoing mediation initiatives, each attempting to broker some form of comprehensive cease-fire. As of writing, the leader of the Sudanese Armed Forces has embarked on a regional tour intended to engage numerous State leaders on, amongst other things, proposals to end the armed conflict. However, there is currently no clear end in sight. Behind the rhetoric of the two forces, atrocities continue to be reported daily. As both sides are seemingly convinced of their respective paths to victory, neither has made a meaningful public commitment to withdraw its troops from residential areas. With States and regional bodies taking regular stock of the leverage that they can feasibly deploy to resolve the impasse, a solution is urgently needed.

The warring sides must commit to ending the atrocities immediately and to refrain from any further targeting of civilians, including freeing all those who have been arbitrarily detained. Then, as a matter of urgency, Sudan must launch full, impartial, and effective investigations and take steps to provide all victims of serious human rights violations and international crimes with reparation. In the meantime, third States should rapidly scale up material support for Sudanese documentation organisations to ensure that those still able and willing to document ongoing crimes are properly equipped, resourced, and coordinated. A significant body of evidence will otherwise be lost.

Accountability and other legislative and institutional reforms are essential prerequisites and key priorities for Sudan to ensure human rights protection and justice. States have primary responsibility for investigating and prosecuting international crimes that occur within their territory. However, Sudan's judicial infrastructure and domestic laws pose serious hurdles to any meaningful prosecution of perpetrators even if there was a political commitment to accountability for international crimes. In this context, there is a clear role for international actors to play in supporting efforts towards justice and accountability in Sudan. Previously, only limited progress has been made to tackle the root causes of Sudan's cyclical crises and violence. Historic unwillingness to prioritise accountability is a palpable root cause of the current armed conflict.

On 13 July 2023, the Prosecutor of the International Criminal Court announced a new investigation into international crimes committed in Darfur since 15 April 2023. This is a welcome development. However, it is unclear whether the International Criminal Court's jurisdiction in Sudan is sufficient to address offences committed elsewhere in the country and, in any event, it has neither the jurisdiction nor the resources to investigate *all* violations since the start of the conflict, and to ensure that *all* perpetrators are held accountable.

As an initial priority, an international independent commission of inquiry should be established to investigate all alleged violations of human rights and international humanitarian law, at least since 15 April 2023. States should also deploy the full accountability toolkit against perpetrators, including: (i) applying targeted sanctions against those individuals and entities most responsible for ongoing widespread human rights and international humanitarian law violations; and (ii) preparing to arrest and prosecute any such individuals that enter their territory under the principle of universal jurisdiction. Going forward, Sudan must then devise and implement a genuine and effective transitional justice process. In this respect, justice must be complementary to, and prioritised within, any peace process and democratic transition.

With this background, this report sets out:

- a) the context to the armed conflict;
- b) the overarching legal framework that applies during the armed conflict;
- c) prima facie evidence of legal violations committed by both sides (including international crimes); and
- d) accountability avenues or measures for these alleged violations and some of the obstacles likely to be encountered.

RECOMMENDATIONS

This section highlights our priority recommendations to the main actors in Sudan. The political dynamics on Sudan are regularly evolving, with various States and regional bodies either directly involved in, or closely monitoring, the current situation. While our recommendations are addressed to specific actors based on the facts as of writing, they should be treated as also being addressed to other functionally equivalent actors that are currently, or become, involved on Sudan.

To the parties to the armed conflict:

- Cease all hostilities without delay and properly engage in a political process with a view to having a civilian government in place at the earliest opportunity.
- Comply with international humanitarian and human rights law obligations, including releasing any persons arbitrarily detained, protecting civilians from targeted attacks, and ensuring that humanitarian aid can be delivered promptly and safely to all areas.
- Publicly commit to the protection of human rights, and to supporting processes that ensure all perpetrators are held accountable (including commanders under the principle of command responsibility).

To the African Intergovernmental Authority on Development, African Union, Saudi Arabia, Egypt, United States, and other mediating organisations and States:

- Make a clear commitment that, once a peace agreement is reached, a political process will be launched to establish a civilian government and the military will not play a continued role in any democratic transition in Sudan. All negotiations should be conducted on this basis.
- Ensure that any peace agreement reached is in accordance with international human rights standards on accountability. Mediators should refuse to endorse any peace agreement that provides for amnesties for genocide, crimes against humanity, war crimes, torture, enforced disappearance, conflict-related sexual violence or other gross violations of human rights or humanitarian law.
- Ensure that any political negotiations are inclusive, transparent, and complementary. Mediating organisations and States should engage in regular dialogue to exchange information, coordinate action, and prevent the warring parties from deploying delay tactics to prolong hostilities while evading international scrutiny.

To the members of the UN Human Rights Council or, as applicable, the African Union Peace and Security Council:

- Establish an international independent commission of inquiry to investigate all alleged violations of human rights and international humanitarian law, at least since 15 April 2023, with a view to holding the perpetrators accountable and providing reparation to the victims of violations.
- Ensure that any negotiations concerning political mediation and settlement that it endorses or is otherwise involved in are grounded in full respect for human rights protection, with a view towards accountability for

all human rights violations that have been committed prior to, and during, the current armed conflict. If future violence is to be avoided, any future political process must prioritise the timely transition to a civilian government that is able to undertake the legal and policy reforms needed in Sudan to ensure the rule of law and protection of human rights.

To the Prosecutor of the International Criminal Court:

- Investigate all credible allegations of international crimes committed within its jurisdiction in Sudan and ensure that those most responsible are held accountable and that victims are provided with reparation.

To all States:

- Rapidly scale up support, including funding, to Sudanese civil society organisations, particularly those conducting documentation work, providing humanitarian assistance, supporting survivors, and otherwise promoting the defence of human rights.
- On documentation of international crimes, prioritise the urgent provision of substantial material support, including funding and technical capacity building, to Sudanese documentation organisations, with a view to ensuring their activities are properly coordinated and fit for their intended purpose (e.g., to maximise the likelihood that the evidence gathered will be admissible, and optimised for use, in future accountability proceedings).
- Apply targeted sanctions against those individuals and entities most responsible for ongoing widespread human rights and international humanitarian law violations, all of which fall within the scope of the available human rights sanctions regimes.
- Monitor the movements of suspected perpetrators of serious human rights violations and international crimes and prepare to arrest and prosecute any such perpetrators that enter their territory under the principle of universal jurisdiction. In this respect, States should proactively open structural investigations to collect evidence in relation to the crimes committed during the current armed conflict.
- Cooperate with the International Criminal Court in the investigation and prosecution of those most responsible for international crimes in Sudan, including employing judicial cooperation tools to support the investigation and prosecution of international crimes, and the provision of reparation for victims. For instance, where requested, States should identify, trace, freeze and seize the assets of accused persons.
- Focus engagements with the warring parties on securing a comprehensive ceasefire, enabling the delivery of further humanitarian aid, and preventing further violations of international and human rights law obligations.
- Continue issuing public statements condemning possible international crimes being committed in the current armed conflict and urging all parties to comply with their international law obligations.

BACKGROUND AND CONTEXT



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General Mohamed Hamdan Dagalo, head of the RSF, pictured on 13 April 2019 during his swearing-in ceremony as the appointed deputy of Sudan's transitional military council, standing before the head of the transitional council, General Abdel Fattah Al-Burhan.

On 15 April 2023, an armed conflict erupted in Sudan between two powerful armed groups – the Sudanese Armed Forces ('SAF'), led by General Abdel Fattah al-Burhan ('al-Burhan'), and the Rapid Support Forces ('RSF'), a paramilitary group led by General Mohamed Hamdan Dagalo ('Hemedti') which was notionally incorporated into the SAF in 2013.¹ Both the SAF and the RSF (as well as al-Burhan and Hemedti personally) have a history of being implicated in international crimes in the Darfur conflict and playing a violent and human rights-violating role in Sudan since the Sudanese revolution.²

Having once led the October 2021 coup together, and after months of internal tensions threatening to boil over,³ these two forces now battle to consolidate power and control; seemingly by any means necessary, and with

1 In 2013, the RSF was formally established under the command of the National Intelligence and Security Services ('NISS'). In 2017, the RSF was recognised under al-Bashir's National Legislature as a special force within the SAF, reporting directly to al-Bashir. The 2019 Constitutional Document re-affirmed that both the SAF and the RSF fall under the authority of the General Commander of the SAF (currently, al-Burhan). While al-Burhan has previously spoken of the RSF as an "integral part" of the SAF, Hemedti has publicly resisted calls for the RSF to be integrated into the SAF. The two forces remained functionally distinct on 15 April 2023, with separate leadership, command chains, and uniforms. See paras. 28 to 30 for context on integration negotiations immediately prior to the current armed conflict. On 6 September 2023, Abdel Fattah al-Burhan dissolved the RSF and abolished the RSF Act of 2017: see Sudan Tribune, "Sudan dissolves paramilitary RSF, abolishes its controversial law", 6 September 2023.

2 See for e.g., fn 8.

3 For further background on al-Burhan and Hemedti's prior relationship, see Joshua Craze, "Gunshots in Khartoum", 17 April 2023; Hager Ali, "The Sudan crisis: A power struggle by design", 18 May 2023. On recent tensions prior to the conflict, see REDRESS' Sudan News Updates from 18 February – 14 April 2023; the Africa Report, "Sudan: Battle of the generals in post-coup power struggle", 16 March 2023.

devastating consequences for civilian life and infrastructure – particularly in Khartoum, Darfur and the three Kordofan States. This conflict is inextricably linked to the history of Sudan; a history marred by inequality, political marginalisation, military coups, ideologically motivated authoritarianism, security business interests, and external interference. While a complete analysis of these (and other) contributing factors is beyond the scope of this report,⁴ this section describes the key recent events and themes culminating in the ongoing conflict.

Revolution and transition

Many of the headline dynamics can be traced back at least as far as the Sudanese revolution – a near-unprecedented peaceful protest movement resulting in the ouster of the former President Omar al-Bashir, whose three-decade-long rule of Sudan was characterised by warfare, extremist policies, rampant corruption, and systematic human rights violations.⁵ The end of his rule promised the opportunity for unprecedented human rights and political reforms in Sudan. However, the revolution was undermined by accommodating the two chief protagonists of the current armed conflict, al-Burhan and Hemedti. Senior SAF leadership capitalised opportunistically on the revolutionary momentum, forcibly unseating al-Bashir in a military coup, and establishing a Transitional Military Council in his place.⁶ Protests nevertheless persisted, with thousands of civilians demanding full transition to a civilian government.⁷

The years that followed have been remarkably turbulent, with Sudan's military and security forces carrying out multiple violent crackdowns on protestors, human rights activists, medical workers, journalists, and opposition figures, as well as another coup in October 2021 – this time against the transitional power-sharing Sovereign Council and transitional government that succeeded the Transitional Military Council.⁸ In each case, al-Burhan's SAF was closely supported by Hemedti's RSF – a notoriously violent paramilitary group formally established by al-Bashir from the *Janjaweed*.⁹

Impunity for serious human rights violations

Despite decades of documented mass human rights violations – both under al-Bashir as well as the subsequent regime led by al-Burhan and Hemedti – very few perpetrators in Sudan have been held accountable. Accountability efforts have been routinely stifled by the presiding Sudanese authorities¹⁰ – demonstrating their ability to preserve the balance of power, as well as the powerful political influence still wielded by remnants of the former

4 For an analysis of the link between these factors and human rights, see Lutz Oette, "Power, Conflict and Human Rights in Sudan" in Lutz Oette and Mohamed Abdelsalam Babiker (eds), *Constitution-Making and Human Rights in the Sudans* (Routledge 2019) 15-40.

5 For further context to al-Bashir's rule and Sudanese revolution of 2018-2019, see Willow Berridge, Justin Lynch, Raga Makawi, and Alex de Waal, "Sudan's Unfinished Democracy: The Promise and Betrayal of a People's Revolution" (C Hurst & Co 2022).

6 See for e.g., Al Jazeera, "Sudan's military seizes power from President Omar al-Bashir", 11 April 2019.

7 See for e.g., fn 5.

8 See for e.g., REDRESS, PLACE, Darfur Bar Association, and the Emergency Lawyers' Group, "Taken from Khartoum's Streets", March 2022; REDRESS, the SOAS Centre for Human Rights Law, and the Sudan Human Rights Monitor, "Your Life Isn't Worth the Price of a Bullet", June 2022; Human Rights Watch, "They Were Shouting 'Kill Them'" – Sudan's Violent Crackdown on Protestors in Khartoum", 17 November 2019; Physicians for Human Rights, "Chaos and Fire": An Analysis of Sudan's June 3, 2019 Khartoum Massacre", 5 March 2020; Situation of human rights in the Sudan, Report of the UN High Commissioner for Human Rights, 9 May 2022, A/HRC/50/22; Situation of human rights in the Sudan, Report of the UN High Commissioner for Human Rights, 12 May 2023, A/HRC/53/19. Prior to the recent conflict, the Central Committee of Sudanese Doctors reported that at least 125 people had been killed since the October 2021 coup.

9 *Ibid.* Under al-Bashir, Sudan's government recruited Arab militia groups from the largely nomadic Arab tribes which had previously co-existed alongside predominantly black Muslim tribes in Darfur (the Fur, Masalit, and Zaghawa). These militia groups were known as the *Janjaweed* and were a critical component of the government's counter-insurgency strategy and targeting of the civilian population in Darfur perceived as a base of support to rebel groups. In 2013, the RSF was formally established from the *Janjaweed*.

10 See for e.g., REDRESS and the SOAS Centre for Human Rights Law, "Domestic Accountability Efforts in Sudan", May 2021.

al-Bashir regime.¹¹ For instance:

- a) though several investigative committees were established to investigate the violent dispersal and enforced disappearance of protestors by Sudanese security forces on 3 June 2019 (often referred to as the “Khartoum Massacre”), no known successful criminal prosecutions have followed; and
- b) while the ICC indicted five Sudanese individuals, including al-Bashir, for alleged international crimes in Darfur, Sudanese authorities have consistently obstructed the ICC’s work.¹² Only one charged person – former *Janjaweed* commander Ali Kushayb – is currently in the ICC’s custody, having voluntarily surrendered himself to the court. Prior to the ongoing conflict, three charged persons were understood to be in domestic custody, albeit with no clear commitment that they would be transferred to the ICC in the near future.¹³ At least one charged person – Ahmed Harun – escaped custody after prisoners were released from various Khartoum prisons during the current armed conflict, and al-Bashir’s current whereabouts have not been independently verified.¹⁴

Organisations including REDRESS have long called for international actors to impose targeted sanctions on key perpetrators of serious human rights abuses in Sudan. Targeted sanctions are an important diplomatic tool through which States can act against perpetrators, including by restricting their financing and international travel avenues, providing immediate recognition of the abuses taking place, showing solidarity with survivors, and signalling to perpetrators that these States do not condone their conduct. Numerous key perpetrators (including members of SAF and RSF leadership) rely on complex international trade networks to finance their activities and, in recent years, have leveraged internationally brokered deals to preserve their political power.¹⁵ Taken together, these factors present a powerful case that, to promote much-needed behavioural change, States should impose targeted sanctions on all Sudanese military leaders responsible for serious human rights violations, as well as the companies who facilitate them.

The US, UK, and EU have all established legal frameworks for the deployment of targeted sanctions¹⁶ and used targeted sanctions as a vital diplomatic tool during armed conflicts in other countries.¹⁷ However, they have only designated a very limited number of key perpetrators in Sudan. Prior to the current conflict, only one Sudanese

11 For recent analysis, see for e.g., Dame Rosalind Marsden, “A critical juncture for Sudan’s democratic transition”, 28 March 2023; Ayin Network, “The paths of return: Sudan’s former regime and Islamist allies”, 9 April 2023; Willow Berridge, “Omar al-Bashir brutalised Sudan – how his 30-year legacy is playing out today”, 25 April 2023.

12 Al-Burhan, Hemedti, and others may well fear the possibility of an ICC inquiry into their own activities in Darfur (see fn 2).

13 Namely, Omar al-Bashir, Ahmed Muhammad Harun (former Minister of State for the Interior and governor of South and North Kordofan), and Abdel Raheem Muhammad Hussein (former Minister of National Defence and Minister of the Interior). In August 2021, Sudanese officials claimed they would hand over the three to ICC custody. However, this never materialised, and the Sudanese authorities have since failed to cooperate with – and at times actively obstructed the work of – the ICC. For a summary of the Sudanese authorities’ recent (lack of) cooperation with the ICC, see the ICC Prosecutor’s Thirty-Seventh Report to the UN Security Council. A fourth charged person, Abdallah Banda Abakaer Nourain (former commander-in-chief of the Justice and Equality Movement Collective-Leadership) remains at large.

14 See para. 125 on the latest updates regarding al-Bashir’s current whereabouts. Al-Bashir was sentenced to two years in detention at a State-run community reform centre, having been found guilty by the Sudanese courts of illegal possession of foreign currency, illicit financial gains and corruption. Prior to the current armed conflict, separate proceedings were ongoing against al-Bashir and 27 former officials regarding their respective roles in the 1989 military coup that brought him to power. On 20 December 2022, al-Bashir – surprisingly – stated during the trial proceedings that he “assume[s] all responsibility for what took place on June 30 [1989]”. These proceedings appear to have been suspended since the start of the current armed conflict.

15 See for e.g., REDRESS and the SOAS Centre for Human Rights Law, “Sudan’s Democratic Transition on Life Support”, June 2022.

16 See REDRESS’ Sudan Sanctions Analysis for a summary of the key sanctions frameworks for the US, UK, EU and UN as at 18 April 2023.

17 E.g., Libya, where “individual designations promoted participation in the talks that led to the signing of the 2015 Libyan Political Agreement”. More recently, see Russia/Ukraine, where targeted sanctions have been applied in a timely and relatively fulsome manner. Some of the justifications for the use of sanctions during armed conflicts (mainly new designations, but sometimes also the threat thereof or the promise of their removal) include to: (i) reduce the resources that are necessary to sustain armed conflict (and related financing avenues); and (ii) incentivise actors to unblock stalled negotiations (e.g., peace or political negotiations) or otherwise oppose the continuation of the conflict.

entity (the Central Reserve Police) had been sanctioned by the US on human rights grounds, and none by the UK or EU. Since then:

- a) the US sanctioned four entities affiliated with either the RSF or the SAF (including three entities previously recommended for sanctions by REDRESS)¹⁸ and imposed visa restrictions on certain unnamed Sudanese actors, in each case for their role in actions or policies that threaten the peace, security, or stability of Sudan.¹⁹ On 6 September 2023, the US imposed sanctions on Abdelrahim Hamdan Dagalo, high-ranking RSF leader and brother of RSF Commander Lieutenant General Mohamed Hamdan Dagalo, for his alleged role in the 2023 conflict.²⁰ He had been previously recommended for sanctions by REDRESS.²¹ On the same day, the US Department of State also imposed visa restrictions on Abdul Rahman Juma, RSF General and West Darfur Sector Commander.²²
- b) the UK later sanctioned six entities affiliated with either the RSF or the SAF on the UK's equivalent stability-related legal basis, including replicating the US' four entity sanctions²³ and designating another entity previously recommended for sanctions by REDRESS.²⁴

While a welcome start, more action is required to maximise the overall impact of these sanctions. Further network sanctions must now follow, and the US, UK, and EU must engage proactively with States where sanctioned assets are held to tackle sanctions evasion networks head-on. The prior lack of sanctions by the US, UK and EU may well have been deliberate to preserve dialogue with the two Generals and to encourage them to enter political negotiations. However, in doing so, they ultimately legitimised al-Burhan and Hemedti as ordinary political actors and emboldened the pair to continue their respective pursuits of absolute power, while also undermining demands for democratic civilian rule.

Failure to prioritise accountability and reform

As REDRESS has previously highlighted, accountability and other transitional justice measures (including legislative and institutional reforms) are urgently needed in Sudan.²⁵ While, following al-Bashir's ouster, these issues ought to have been viewed as a top-line priority by States and other international actors concerned about the future of Sudan, only limited progress has been made in tackling the root causes of Sudan's cyclical crises. In the absence of genuine accountability and reform, two key consequences follow:

18 REDRESS previously made submissions to the U.S. and UK governments calling for targeted sanctions against various individuals and entities connected to a campaign of serious human rights violations against activists since the October 2021 coup.

19 U.S. Department of the Treasury, "Treasury Sanctions Military-Affiliated Companies Fueling Both Sides of the Conflict in Sudan", 1 June 2023; REDRESS, "REDRESS Welcomes the Imposition of U.S. Sanctions and Visa Restrictions on Actors Linked to the Ongoing Violence in Sudan", 2 June 2023.

20 U.S. Department of the Treasury, "Treasury Sanctions Sudanese Paramilitary Leader", 6 September 2023.

21 REDRESS, "Amidst Deadly Armed Clashes, Targeted Sanctions Must Be Imposed against Sudan's Coup Leaders", 18 April 2023.

22 U.S. Secretary of State, "Actions Against Senior Rapid Support Forces Commanders in Sudan", 6 September 2023.

23 Office of Financial Sanctions Implementation, HM Treasury, "Consolidated List of Financial Sanctions Targets in the UK", 12 July 2023. The UK subsequently sanctioned three entities and two individuals involved with the Wagner Group in Sudan.

24 The EU has not imposed any targeted sanctions on perpetrators in Sudan since the current armed conflict began, though it is reportedly setting up a new sanctions framework with a view to making designations – possibly in the near future. According to one source, the EU is preparing designations in respect of "some in the entourage of the two belligerents", suggesting that individual sanctions may follow. In September 2023, REDRESS will submit a dossier of evidence to the EU urging them to designate various Sudanese individuals and entities for targeted sanctions.

25 REDRESS and the SOAS Centre for Human Rights Law, "Sudan's Democratic Transition on Life Support", June 2022.

- a) the balance of political power remains vested with Sudan's military and security actors. These actors wield a firm grip over Sudan, having leveraged their firepower and exploited the perceived vulnerabilities of other political actors to consolidate influence, extract State assets for personal gain, and evade accountability. In recent years, the SAF and the RSF have conducted a sustained campaign of human rights violations to suppress objections to the military's seizure of power. An absence of accountability has reinforced the belief within these forces that they can continue to commit serious human rights violations (including systematic extrajudicial killings of peaceful protestors) without challenge, and has enabled them to further concentrate power, suppress dissent, and eliminate threats to their rule; and
- b) accordingly, Sudan remains highly vulnerable to further coup attempts orchestrated by elements within its military and security apparatus. Despite the military authorities' apparent united front, numerous powerful factions exist within – each driven by a complex blend of power, greed, self-preservation, political affiliation, ethnicity, ideological beliefs, alliances, and rivalries; all vying to exert their influence over Sudan's political infrastructure. This includes senior leadership within Hemedti's RSF (and Hemedti personally), as well as Islamist remnants of al-Bashir's National Congress Party.²⁶

Tensions leading to 15 April 2023

While an array of factors contributed to rising tensions between the SAF and the RSF in the build-up to the current armed conflict, three key aspects stand out:

- a) mediating States/entities brokering transitional power-sharing deals with al-Burhan and Hemedti, despite activists long demanding that there be no continued role for the military to play in Sudan's democratic transition²⁷ and warning that the country could not sustain both al-Burhan and Hemedti as de-facto rulers;²⁸
- b) lack of security sector reform ('SSR'), including maintaining the SAF and the RSF as distinct military units; and
- c) Hemedti's desire to further consolidate power post-revolution and his uneasy relationship with al-Burhan.

Following the October 2021 coup, the Trilateral Mechanism²⁹ and the Quad³⁰ brokered negotiations culminating in the signing of the Framework Agreement in December 2022 – a deal that envisaged a two-year power-sharing transition period, at the end of which Sudan's Generals would apparently hand over political power to a fully ci-

26 On this, see Khalid Abdelaziz, "Exclusive: Islamists wield hidden hand in Sudan conflict, military sources say", 28 June 2023; Antione Galindo, Augustine Passilly, "Fugitive NCP veteran Ali Karti ready to pounce from the shadows", 10 July 2023.

27 Amongst the array of excellent recent scholarship on this topic, see for e.g., Kholood Khair, "A Plague O' Both Your Houses: The False Dilemma of Sudan's Elites", 7 March 2023; Robbie Gramer, "How the U.S. Fumbled Sudan's Hopes for Democracy", 10 May 2023; Alex de Waal, "The Revolution No One Wanted", 18 May 2023; Hager Ali and Gerrit Kurtz, "Stopping the War in Sudan", 28 May 2023; Oscar Rickett and Mohammed Amin, "Sudan: All roads lead to Khartoum as Russia, Israel and West view in game of thrones", 9 February 2023.

28 See for e.g., Kholood Khair, "A Coup Cannot Serve Two Masters", 22 February 2022 – "The October 25 coup [...] enables its senior-most generals to evade engaging on three key drivers of the military's dominance of Sudan's political and social landscape: economic accountability, transitional justice, and security sector reform. But in the medium to long run, the putschists will contest their share of the spoils of conquest—namely, access to resources to maintain their troops, a monopoly on violence and, ultimately, the presidency." More recently, see for e.g., Declan Walsh, "2 Generals Took Over a Country. Will They Deliver Democracy or War?", 6 April 2023.

29 Comprised of the African Union, the Intergovernmental Authority on Development (IGAD), and the UN Integrated Transition Assistance Mission Sudan (UNITAMS).

30 Comprised of Saudi Arabia, the UAE, the UK and the US.

vilian government.³¹ Among the “final issues” set out in the Framework Agreement to be resolved prior to signing a final agreement, the most contentious for both al-Burhan and Hemedti was long overdue SSR³² – an issue at the very heart of Sudan’s cyclical political crises. It would pose difficult questions for both al-Burhan and Hemedti, whose forces have been consistently implicated in myriad serious human rights violations, and regularly operate without respect for domestic and international law.³³

The Framework Agreement required that, as part of upcoming SSR policies, the RSF would – finally – be functionally integrated into the SAF “in accordance with agreed timelines”.³⁴ This would prove the key outstanding issue between the parties.³⁵ RSF integration poses an existential threat to Hemedti’s wider political aspirations, which are an open secret across the region and, in turn, threaten al-Burhan’s leadership.³⁶ The RSF – which has amassed a formidable legion of battle-trained fighters – has, since its formation, been perceived as a military counterweight to the SAF.³⁷ Hemedti has leveraged the RSF to build considerable domestic and regional clout, becoming a major political force in the process.³⁸ Al-Burhan saw the importance of keeping him on-side, having, until recently, retained Hemedti as his deputy despite obvious clashes between their wider interests. Further, even if the Generals could themselves agree on the issue of RSF integration, significant operational and cultural differences are thought to exist between the two forces and co-ordination between them was apparently “non-existent” shortly prior to the conflict.³⁹

Belying the complexities of these dynamics, the resulting negotiations were hurried and dominated by military actors.⁴⁰ In an expedited timeframe, Hemedti and al-Burhan were expected to agree on the pathway – and timeline – to RSF integration into the SAF, as well as the agenda for top-down reform of Sudan’s entire security apparatus. The cracks soon began to show. Talks of RSF integration ultimately overshadowed the wider SSR debate, with the SAF proposing a two-year integration period, while the RSF called for a 10-year timeline.⁴¹ Having failed to agree on this and other issues, tensions increased further as SAF representatives abruptly withdrew from the closing session of the SSR discussions.⁴² Both al-Burhan and Hemedti themselves were also conspicuously absent from this ses-

31 The Framework Agreement can be viewed [here](#). On the Framework Agreement negotiations, see International Crisis Group, “A Critical Window to Bolster Sudan’s Next Government”, 23 January 2023. On Sudan’s unhappy history of coups and a summary of the political context prior to the current conflict, see REDRESS and the SOAS Centre for Human Rights Law, “Sudan’s Democratic Transition on Life Support”, June 2022.

32 The other final issues are accountability and transitional justice; the future of the Juba Peace Agreement; the dismantling of the 30 June 1989 regime; and issues in the [east of Sudan](#).

33 See for e.g., REDRESS, the SOAS Centre for Human Rights Law, and the Sudan Human Rights Monitor, “Your Life Isn’t Worth the Price of a Bullet”, June 2022.

34 Section 4, Paragraph 6(c) of the [Framework Agreement](#).

35 The various parties (including the RSF and SAF) also disagreed on other key issues. See for e.g., Dabanga, “Signing of Sudan’s Final Agreement postponed over SAF-RSF differences”, 4 April 2023; Dabanga, “Sudan: Breakthrough on security reform, rebels demand more power, revolutionary forces call for unity”, 6 April 2023.

36 See for e.g., Michael Georgy, “General’s growing political clout poses a risk to Sudan’s transition”, 30 May 2019; International Crisis Group, “Safeguarding Sudan’s Revolution”, 21 October 2019; Africa Intelligence, “CIA follows Hemeti trail from N’Djamena to Bangui”, 6 March 2023.

37 This was a deliberate strategy by Omar al-Bashir. See for e.g., Mai Hassan and Ahmed Kodouda, “Sudan’s Uprising: The Fall of a Dictator”, October 2019 – “Bashir attempted to coup-proof his regime through fragmentation of the internal-security apparatus—a strategy that entails using different security organs as counterweights to one another, giving them overlapping responsibilities, and reducing their lines of communication and coordination. The goal is to make it more difficult for any one branch of the security apparatus to organize a coup [...] This strategy also lowers the likelihood that any coup attempt will succeed”. During his time in power, al-Bashir is [reported](#) to have affectionately referred to Hemedti as “Hamayti”, meaning my protector (a wordplay on the name “Hemedti”).

38 See for e.g., Global Witness, “Exposing the RSF’s secret financial network”, 9 December 2019.

39 Tweet from Mohamed Mustafa, 21 February 2023.

40 See for e.g., Dabanga, “Sudan Security Reform conference concludes”, 29 March 2023.

41 Reuters, “Sudanese talks hit roadblock over security sector reform”, 30 March 2023; Sudan Tribune, “Divergences over RSF’s integration timeline delay security workshop recommendations”, 29 March 2023.

42 *Ibid.*

sion, which concluded without agreed recommendations.⁴³ Although the two forces had never previously fought each other, in the months prior, both had increased recruitment activity and strategically redeployed troops; presumably anticipating the prospect of imminent conflict.⁴⁴ The situation had now become extremely fragile. Military-technical committees were tasked with resolving the outstanding differences between the SAF and RSF but failed to accomplish this, despite the deadline for a final agreement being extended on multiple occasions.⁴⁵

Around this time, RSF deployed troops in Merowe, Northern State, leading to a tense military stand-off with the SAF.⁴⁶ An influx of RSF reinforcements also deployed in Khartoum.⁴⁷ In an uncharacteristically direct statement, SAF Spokesman Nabil Abdallah stated that the RSF's deployment "clearly violates the law" and warned that continued RSF deployment in Merowe and Khartoum would "inevitably cause more divisions and tensions that may lead to the collapse of security".⁴⁸ Though various actors attempted to mediate the tensions and reports initially suggested a resolution had been reached,⁴⁹ the people of Sudan awoke on 15 April 2023 to heavy exchanges of fire between the RSF and SAF, both of whom blamed the other for initiating attacks.⁵⁰ The clashes, while initially concentrated in Khartoum and Merowe, rapidly spread in the first twenty-four hours, including to Darfur, North Kordofan, Port Sudan, Kassala, and Blue Nile.⁵¹

43 [Tweet from Tom Rhodes](#), 30 March 2023. It had been envisaged that recommendations agreed during the final issue workshops/conferences would feed directly into any final agreement.

44 *See for e.g.*, Ayin Network, "Darfur's recruitment race: Sudan's army and Rapid Support forces compete for influence", 26 March 2023; Sudan Tribune, "RSF confirms arrival of troops in Khartoum for training", 8 March 2023; [Tweet from Salma](#), 16 March 2023.

45 Dabanga, "Signing of Sudan's Final Agreement postponed over SAF-RSF differences", 4 April 2023.

46 Al Jazeera, "Fears in Sudan as army and paramilitary force face off", 13 April 2023.

47 Sudan Tribune, "RSF moves armoured vehicles from Darfur to Khartoum in anticipation of any emergency". This followed speculation that the RSF would deploy 60,000 troops in Khartoum. In response, the SAF [built a wall](#) in front of its Khartoum HQ.

48 [Video on SAF Facebook Page](#), 13 April 2023.

49 "Sudan's Hemedti committed to de-escalate, ready to meet with army chief Burhan – statement", 14 April 2023.

50 Khalid Abdelaziz and Nafisa Elthahir, "Sudan clashes kill at least 25 in power struggle between army, paramilitaries", 15 April 2023.

51 *See for e.g.*, The New York Times, "What Happened on the Second Day of Fighting in Sudan", 16 April 2023.

DEVELOPMENT AND CONSEQUENCES OF THE CONFLICT



©Reuters/Mohamed Nureldin Abdallah.

Aerial bombardment in a neighbourhood in Bahri (Khartoum North), during clashes between the paramilitary RSF and the army in May 2023.

Urban warfare

The SAF and RSF have consistently throughout the conflict engaged in urban warfare while battling for control of strategic locations, particularly around Khartoum, Darfur, and the three Kordofan States.⁵² This distinctive form of combat refers to military operations that take place in densely populated urban areas. The “co-mingling of military objectives with civilians and civilian objects”⁵³ drastically increases the likely scale and magnitude of civilian harm caused by the fighting – particularly as modern armed forces and paramilitary groups regularly use explosive weaponry in areas proximate to homes, infrastructure, and other installations indispensable to the survival of civilian populations.

Since the very early stages of the conflict, fighters have integrated themselves within urban zones – occupying homes, hospitals, religious buildings, and civilian infrastructure as ad-hoc military bases; by violence, if necessary.⁵⁴ Credible reports suggest that most occupants are RSF fighters, though members of both sides have been

52 See for e.g., UN Human Rights Council, “High Commissioner for Human Rights: the Reckless, Senseless Conflict in Sudan Has Resulted in a Human Rights and Humanitarian Crisis that Is Unfolding at an Alarming Rate and on a Devastating Scale”, 19 June 2023.

53 Laurent Gisel, Pilar Gimeno Sarcia, Ken Hume, and Abby Zeith, “Urban warfare: an age-old problem in need of new solutions”, 27 April 2021.

54 See for e.g., Andrew McGregor, “Sudan’s Fratricidal Conflict: An Assessment of SAF and RSF Strategies and Tactics”, 26 May 2023; Amnesty International, “Death Came to Our Home: War Crimes and Civilian Suffering in Sudan”, 3 August 2023, Ch. 5.

accused of this behaviour.⁵⁵ While further evidence is required to confirm what specific orders have been issued by RSF leadership to fighters, the consistency and scale of their conduct are indicative of a deliberate combat strategy; also noting that:

- a) many of the key assets being contested by the two forces, especially in Khartoum and Darfur, are embedded within principally urban areas;⁵⁶
- b) by most accounts, the RSF is the more agile of the two forces (and therefore arguably more adept at urban warfare), operating with a relatively light command structure, relatively limited overarching coordination, and many trained ground troops;⁵⁷
- c) given the SAF's major aerial combat advantage, the RSF is particularly vulnerable to airstrikes.⁵⁸ Alongside deploying anti-aircraft weaponry in urban areas, the RSF is accused of using civilian populations as human shields by exploiting the proximity of nearby civilians and vital infrastructure to protect themselves from SAF attacks.⁵⁹

Despite the high risk of civilian casualties, the SAF has employed aerial bombardments extensively, especially in Khartoum, as a means of dislodging the RSF and targeting their re-supply lines. When fighting on the ground, both forces have also deployed explosive weaponry in densely populated areas, including artillery and rockets.⁶⁰ These attacks have had devastating consequences for human life and surrounding infrastructure.⁶¹ For instance, Human Rights Watch has verified multiple videos showing the bombing of crowded urban areas in Khartoum since the fighting began. On 18 April 2023, aircraft bombed El Shaab (one of the biggest public hospitals in Khartoum). Another Khartoum hospital, Ibn Sina, was also hit.⁶² The next day, an airstrike killed a child while he and his father were driving through a neighbourhood in West Khartoum.⁶³ On 24 April 2023, a residential neighbourhood in south Khartoum was bombed. Estimates suggest that at least 40 people were killed.⁶⁴ It is not clear that the area had any known RSF presence.⁶⁵ This pattern has continued in recent months, with similar strikes regularly reported in Khartoum.⁶⁶ For instance, an airstrike in al-Kalakla al-Qubba killed at least 20 civilians on 2 September 2023.⁶⁷ These attacks have generally been attributed to the SAF, which is the only side with an established air force and known to operate attack aircraft around Khartoum,⁶⁸ though both forces now also deploy armed drones.⁶⁹

55 See for e.g., Ayin, Human Rights Hub, and the Sudan Transparency and Policy Tracker, "The Sudan Conflict Observer" on 27 April, 10 May, 31 May, and 19 June 2023; Mat Nashed, "Sudan residents describe raids, evictions by RSF soldiers", 7 May 2023.

56 For historical context on Khartoum, see for e.g., Azza Mustafa Babikir Ahmed, "The fall of Khartoum", May 2023.

57 See for e.g., Hager Ali, "The Sudan crisis: A power struggle by design", 18 May 2023.

58 See for e.g., Andrew McGregor, "Sudan's Fratricidal Conflict: An Assessment of SAF and RSF Strategies and Tactics", 26 May 2023; Hager Ali, "The Sudan crisis: A power struggle by design", 18 May 2023.

59 See for e.g., Report from Eekad, 2 May 2023; Mohamed Amin, "'Hostages and human shields': The civilian toll of Sudan's crisis", 24 April 2023. The Sudanese Ministry of Foreign Affairs has also accused the RSF of using civilians as human shields.

60 Human Rights Watch, "Sudan: Explosive Weapons Harming Civilians", 4 May 2023.

61 On infrastructure damage in Khartoum, see for e.g., SCO, Report 007, 28 July 2023, noting incidents of damage to protected civilian objects and civilian infrastructure by SAF airstrikes as of 26 July 2023 (Annex 1).

62 *Ibid.*

63 Mohammed Amin, "Khartoum diary: 'I lost my son in this meaningless power struggle'", 25 April 2023.

64 Sudanese Human Rights Group, "Report of violations against civilians in South Khartoum & Al-Kalakla", 31 May 2023.

65 *Ibid.*

66 Dabanga, "Sudan war: Air strike leaves 12 civilians dead", 8 June 2023; Dabanga, "At least 37 Sudanese dead in Omdurman airstrikes", 10 July 2023; Dabanga, "Airstrikes in Sudan capital, forced evacuations continue", 8 August 2023.

67 Sudan War Monitor, "Airstrike kills 20 civilians at Khartoum market", 3 September 2023.

68 See for e.g., Human Rights Watch, "Sudan: Explosive Weapons Harming Civilians", 4 May 2023.

69 See for e.g., Sudan War Monitor, "Drone war intensifies", 21 July 2023 – which describes how both sides have adapted commercial drones, which they use to drop hand grenades or mortar shells. See also Sudan Tribune, "14 civilians killed in RSF drone strike on civilian gathering in Khartoum", 19 July 2023; SCO, Report 007, 28 July 2023.

Sudan's hospitals have been badly affected by the fighting, with many hospitals occupied by fighters (typically, the RSF) or otherwise out of service. Healthcare systems in Khartoum and Darfur have either collapsed or are on the verge of collapse.⁷⁰ An estimated 70% of people in conflict-affected areas lack access to healthcare.⁷¹ Numerous hospitals have been occupied by force by the RSF; sometimes resulting in air strikes – seemingly the SAF attempting to dislodge RSF fighters or cut off their supply lines.⁷² Others have been badly damaged during the foray of explosive attacks between the forces.⁷³ Functioning hospitals in conflict zones operate in challenging circumstances, with medical supplies often being stolen or destroyed, intermittent (and often widespread) water and electricity outages, as well as regular streams of wounded individuals requiring urgent treatment. For instance, the RSF reportedly took control of the East Nile Hospital in north Khartoum in the early stages of the conflict, positioning vehicles and anti-aircraft weapons in the surrounding area.⁷⁴ Several airstrikes were launched in the area, reportedly by the SAF, in part targeting the building's electricity generator and fuel tank.⁷⁵ At least five civilians were killed following an initial strike.⁷⁶ Footage later circulated online showing that the interior of East Nile Hospital had been destroyed by the strikes and its exterior and foundations badly damaged.⁷⁷

Various religious buildings have also been looted or destroyed. Within a few weeks of the conflict beginning, having mostly occupied homes, hospitals, and other civilian infrastructure before then, the RSF attacked and occupied multiple churches in short succession, violently expelling worshippers, and raiding supplies.⁷⁸ For instance, at least five people were injured after an attack, reportedly by the RSF, on St George's Church, Omdurman.⁷⁹ Gunmen entered the church building shortly before midnight, spraying bullets at civilians and demanding gold and money.⁸⁰ Around this time, the RSF also ousted clergy and occupied at least two churches in Khartoum, St Mary's Church and the Sudanese Episcopal Anglican Church.⁸¹ Two mosques, El Azhari Mosque and the Bur'i El Dereisa Mosque, were also bombed at this time, killing at least one worshipper.⁸² The African Centre for Justice and Peace Studies has since documented at least sixteen mosques that have been partially destroyed and a further two churches that were raided, looted, and otherwise targeted by fighters.⁸³

70 See for e.g., Joint IRC, BMA and SDFHR Statement, 11 May 2023; Virginia Pietromarchi, "An imminent catastrophe: Healthcare disaster looms in Darfur", 5 May 2023. More recently, see Sudan Tribune, "Doctors warn of disease disaster over dead bodies in Khartoum", 7 August 2023.

71 Dabanga, "Sudan war enters its 100th day, medicines almost depleted in conflict areas", 26 July 2023. More than 80% of hospitals in Sudan are now out of service, according to the World Health Organisation.

72 SAF fighters have also reportedly occupied hospitals, e.g., Al-Amat Hospital.

73 In Darfur, see for e.g., an armed attack and looting of El-Geneina Teaching Hospital, reportedly by the RSF. See also Sudan Conflict Observatory ('SCO'), Situational Awareness Report 003, 22 June 2023; and photos of the aftermath.

74 Celine Alkhalidi, Ingrid Formanek, Mohammed Tawfeeq, and Helen Regan, "Clashes renew in West Darfur as food and water shortages worsen in Sudan violence", 28 April 2023; BBC News Arabic, "Sudan conflict: Hospital attacks potential war crimes, BBC told", 26 May 2023.

75 Middle East Monitor, "Sudanese army air strikes hit East Nile Hospital", 16 May 2023; Agenzia Nova, "Sudan: East Nile Hospital largely destroyed by air raid", 15 May 2023; Tweet from Benjamin Strick, 15 May 2023.

76 BBC News Arabic, "Sudan conflict: Hospital attacks potential war crimes, BBC told", 26 May 2023.

77 For footage of the aftermath, see for e.g., Tweet from reco, 15 May 2023; Tweet from the Sudan Times, 19 May 2023; Tweet from Adam Mousa, 19 May 2023.

78 See for e.g., Madeleine Davies, "Anglican cathedral compound in Khartoum raided, as rival security forces clash", 19 April 2023; Tweet from Kelsey Zorzi, 23 April 2023; Agenzia Fides, "El-Obied Cathedral hit by rocket bullets", 2 May 2023.

79 Tweet from Mohamed Suliman, 14 May 2023. Maggie Michael, "Witnesses recount gunmen's raid on church in Sudan's capital", 18 May 2023.

80 *Ibid.*

81 *Ibid.*; Morning Star News, "Christians wounded, Bible school bombed in Sudan", 25 May 2023; Tweet from NourGina, 15 May 2023; Tweet from Sudan News, 16 May 2023.

82 Dabanga, "Sudan war: church attacked, mosques bombed, and more hospitals raided", 15 May 2023.

83 African Centre for Justice and Peace Studies, "Sudan: Urgent Call to SAF and RSF to Respect Freedom of Religion and Worship", 19 July 2023.

Targeting of doctors, journalists, humanitarian workers, and others

Following the 25 October 2021 coup, the SAF, the RSF, and other intelligence, security, and police forces, engaged in a concerted, systematic campaign to crush peaceful opposition to their rule.⁸⁴ As is well documented, the forces would – with impunity – use excessive, lethal force against protestors, and would arbitrarily arrest and torture opponents.⁸⁵ While the SAF and the RSF no longer act in concert, their forces are both engaged in similar campaigns, targeting non-combatants they perceive as their opposition – including doctors, journalists, and humanitarian workers.⁸⁶

Many medical workers who are still based in Sudan have continued treating the sick and wounded, despite doing so in perilous circumstances. Some have, in the process, also documented violations committed by the SAF and the RSF.⁸⁷ Both the SAF and the RSF have targeted doctors regularly since the start of the conflict.⁸⁸ For instance, shortly after 15 April 2023, numerous smear campaigns were launched online, accusing doctors by name (often those perceived as pro-democracy activists) of apparently treating wounded RSF fighters.⁸⁹ In a viral video, a SAF Major-General also accused the Central Committee of Doctors of being “rebels”.⁹⁰ These accusations spread rapidly across Sudanese WhatsApp groups. Doctors reported receiving anonymous threats online and over the phone,⁹¹ placing them at increased risk of personal harm. In some instances, doctors have since been arbitrarily arrested or abducted by security and intelligence forces. Other doctors who have spoken to REDRESS have stopped working or fled Sudan to protect themselves and their families from personal attacks.

Dr. Alaaeldin Nogod, for example, is a prominent doctor, activist, and spokesperson for the Sudanese Professionals Association – an umbrella organisation of unions consisting of lawyers, doctors, and other medical workers, which played a vital role in the ouster of al-Bashir back in 2019. After the onset of fighting, an anonymous statement was posted online accusing him of being a traitor for supposedly treating RSF fighters.⁹² In an interview with Al Jazeera published on 9 May 2023, Dr. Nogod expressed his belief that the SAF wanted doctors to expressly attribute hospital attacks to the RSF.⁹³ Further (potentially fabricated) material circulated online, including messages and images implying he had been conspiring with the RSF.⁹⁴ On 27 May 2023, Dr. Nogod was violently abducted from his home in Khartoum by ten armed men who claimed to be from Military Intelligence.⁹⁵ On 8 June 2023, he was released.⁹⁶

84 See for e.g., REDRESS, the SOAS Centre for Human Rights Law, and the Sudan Human Rights Monitor, “Your Life Isn’t Worth the Price of a Bullet”, June 2022; REDRESS, PLACE, Darfur Bar Association, and the Emergency Lawyers’ Group, “Taken from Khartoum’s Streets”, March 2022.

85 See for e.g., fn 8.

86 The forces have also targeted other groups. For instance, the RSF has also embarked on a series of arrests, targeting prominent Islamists and loyalists to the National Congress Party. In the early stages of the conflict, several diplomatic/humanitarian officials were attacked (e.g., the EU Ambassador in Sudan was assaulted (but “unharmful”), another senior EU official was shot, a US diplomatic convoy was shot at, and a shell hit the residence of Norway’s ambassador in Khartoum). Further information is needed to confirm whether these incidents were targeted attacks.

87 See for e.g., Mat Nashed, “Sudan doctors targeted with threats and smear campaigns”, 9 May 2023.

88 Ibid; Katharine Houreld and Hafiz Haroun, “Sudan’s warring factions target doctors and activists”, 17 May 2023.

89 Ibid.

90 BBC News Arabic, “Sudan conflict: Hospital attacks potential war crimes, BBC told”, 26 May 2023.

91 Tweet from Sudan’s Doctors for Human Rights, 8 May 2023.

92 Mat Nashed, “Sudan doctors targeted with threats and smear campaigns”, 9 May 2023.

93 Ibid.

94 Ibid.

95 Mat Nashed, “Sudanese doctor ‘abducted’ after smear campaigns, says family”, 31 May 2023; Tweet from Sudanese American Physicians Association, 27 May 2023.

96 Tweet from Dahlia Eltahir, 8 June 2023.

Journalists have likewise been targeted, particularly those with a history of documenting human rights violations.⁹⁷ In the early days of the conflict, lists circulated online accusing journalists by name of supporting either the RSF or the SAF.⁹⁸ Some journalists (and their families)⁹⁹ received anonymous threats; others were arrested and sometimes tortured by armed officers. Alongside violently occupying media and broadcasting facilities as ad-hoc military bases (possibly with a view to controlling emerging narratives),¹⁰⁰ the RSF has been accused of storming the offices of several independent newspapers – apparently intimidating and looting staff, as well as destroying files, records, and equipment.¹⁰¹ The Sudanese Journalists Syndicate documented more than 40 violations against journalists and press organisations between 15 and 31 May 2023 alone, including enforced disappearances, abductions, and raids on homes and premises.¹⁰²

Faiz Abubakr, for example, is a photojournalist who documents pro-democracy protestors in Sudan.¹⁰³ During the conflict, he was shot in the back while filming in Khartoum and then arrested, reportedly by the RSF, and accused of being affiliated with the SAF and Military Intelligence.¹⁰⁴ During his time in detention, Abubakr was allegedly threatened with a knife and beaten.¹⁰⁵ He was eventually released and managed to obtain medical treatment.¹⁰⁶

Finally, humanitarian workers have also been regularly attacked since the start of the conflict. During the first days of the conflict, three UN World Food Programme staff¹⁰⁷ and four staff of the Blue Nile Mashreg Bank¹⁰⁸ were killed. More recently, Médecins Sans Frontières (**MSF**) reported that an MSF team of 18 people was stopped by a group of armed men while transporting medical supplies to the Turkish Hospital in Khartoum. “After arguing about the reasons for MSF’s presence, the armed men aggressively assaulted [the] team, physically beating and whipping them, as well as detaining the driver of one of [MSF’s] vehicles. The armed men threatened the driver’s life before releasing him. They then stole the vehicle.”¹⁰⁹

Arbitrary detention, torture, and enforced disappearance

Hundreds of civilians in Sudan have been reported as missing.¹¹⁰ Some of these individuals have likely been forcibly displaced, killed or injured in the crossfire of attacks, or are otherwise unable to access working communications infrastructure. However, an unprecedented number of civilians have also been arbitrarily arrested or

97 See for e.g., Committee to Protect Journalists, “Journalists shot, beaten, and harassed covering conflict between Sudan’s rival military groups”, 30 May 2023.

98 Mat Nashed, “Silencing dissent: Journalists in Sudan face threats, raids”, 16 May 2023; [Tweet from the Sudanese Journalists Syndicate](#), 11 May 2023.

99 [Tweet from Hassan Ahmed Berkia](#), 22 May 2023.

100 See for e.g., Dabanga, “Sudan Journalists Syndicate demand RSF leaves broadcasting HQ”, 21 May 2023.

101 See for e.g., Dabanga, “RSF storm El Midan newspaper in Sudan”, 31 May 2023 – on El Midan newspaper; Dabanga, “Sudanese journalists condemn attacks, ‘anonymous lists’”, 13 May 2023 – on el-Hirak el-Siyasi newspaper. Journalists in Sudan have long been vulnerable to targeted attacks by Sudan’s security and intelligence services. See for e.g., Euro-Mediterranean Human Rights Monitor, “We Have to Hide Who We Are: Harassments against journalists in Sudan after the military coup”, March 2022. Sudan ranked 148 (out of 180) on Reporters Without Borders’ 2023 World Press Freedom Index.

102 Dabanga, “Violations against journalists in Sudan war”, 6 June 2023. More recently, see Dabanga, “SJS: ‘Fate of dozens of Sudan journalists unknown’”, 25 June 2023.

103 He was previously named winner in the ‘singles’ category for Africa at the regional stage of the 2022 World Press Photo Contest. His entry showed a protestor hurling a teargas canister back at riot police during a demonstration in 2021.

104 Dabanga, “Sudanese journalists condemn attacks, ‘anonymous lists’”, 13 May 2023; [Facebook Post from the Sudanese Journalists Network](#), 9 May 2023.

105 *Ibid.*

106 *Ibid.* Since then, other journalists have also been targeted personally by the respective forces. See for e.g., [Tweet from the Sudanese Journalists Syndicate](#), 1 June 2023 on the arbitrary arrest of a journalist, reportedly by the RSF.

107 UN World Food Programme, “Statement by WFP Executive Director on developments in Sudan”, 16 April 2023.

108 The World Bank, “World Bank Group Statement on Sudan”, 17 April 2023.

109 MSF, “Staff beatings, death threats jeopardise MSF’s presence in Khartoum hospital”, 21 July 2023.

110 See for e.g., the [Missing Initiative](#), which regularly publishes reports on missing persons cases.

abducted by the RSF or the SAF's Military Intelligence. Reportedly, the RSF has detained more than 5,000 people in Khartoum, including approximately 3,500 civilians.¹¹¹ Many are held in "degrading, inhumane conditions of detention devoid of human dignity and the most basic necessities of life".¹¹² Military Intelligence is similarly accused of arresting approximately 1,500 people.¹¹³

In many cases, civilians are abducted from their homes or public streets. Based on emerging patterns, the relevant force may, when asked, acknowledge their involvement in the individual's arrest or provide information on the whereabouts of the individual. However, this is rare. Further evidence is required to confirm to what extent this behaviour is deliberate (e.g., information on the state of record-keeping within detention centres and what arrest orders have been issued and by whom). It should be noted that, prior to the armed conflict, enforced disappearances were regularly employed by Sudan's military and security actors, including the RSF and Military Intelligence, against perceived opposition.¹¹⁴

Prior to the armed conflict, the RSF and Military Intelligence had also both been consistently implicated in the torture and ill-treatment of those in detention.¹¹⁵ Now, the already inadequate procedural and monitoring safeguards that previously gave detainees some protection have no doubt ceased to apply. This issue is only exacerbated by the use by both forces (but especially the RSF) of unacknowledged secret detention centres or "ghost houses".¹¹⁶ In this context, there is evidence of the widespread use of torture by both forces against those in their detention.¹¹⁷ Individuals in detention are at heightened risk of being tortured and disappeared;¹¹⁸ for instance, to intimidate them and extract information, or to punish them for supposedly being a spy/supporting the other side. As an example, in one case, an individual with a pre-existing mental health condition was arbitrarily detained by the RSF, transported to an RSF detention facility east of Khartoum, and subjected to "severe" – and ultimately fatal – torture.¹¹⁹

It is difficult to ascertain the rationale (if any) for detaining and torturing particular individuals. Men, women, and children have all been detained since 15 April 2023. Resistance committee members are one of the groups in a particular position of vulnerability because:

- a) they could face retaliatory attacks for their political activities. Since the 2019 coup, most of the grassroots political activism organised through the resistance committees has been directed against the Sudanese au-

111 Khalid Abdelaziz, Joie Kao, "Sudan's paramilitary RSF detained 5,000, some tortured, human-rights groups say", 14 July 2023.

112 *Ibid.*

113 Sudan Tribune, "Detention and Espionage: Parallel wars wage on in Khartoum's Shadows", 12 August 2023.

114 See for e.g., REDRESS, PLACE, Darfur Bar Association, and the Emergency Lawyers' Group, "Taken from Khartoum's Streets", March 2022; REDRESS, "Impunity in Sudan over Enforced Disappearances During the 'Khartoum Massacre' Brought Before the UN", 3 June 2023 (the UN Working Group on Enforced or Involuntary Disappearances subsequently transmitted a [General Allegation](#) to Sudan in response to this intervention); the African Centre for Justice and Peace Studies, "Urgent Call to Sudanese Authorities, RSF and SAF to Account for Thousands of Citizens Who Have Gone Missing Since the Armed Conflict Erupted", 29 June 2023.

115 See for e.g., fn 8; REDRESS, "Torture-tainted trials in Sudan", September 2022.

116 Based on discussions held between REDRESS and Sudanese human rights documenters. Also, see Sudan Tribune, "Detention and Espionage: Parallel wars wage on in Khartoum's Shadows", 12 August 2023; and [recent reporting](#) (Arabic) by Emergency Lawyers on the conditions in temporary and permanent detention centres operated by the RSF and the SAF.

117 See for e.g., Khalid Abdelaziz, Joie Kao, "Sudan's paramilitary RSF detained 5,000, some tortured, human-rights groups say", 14 July 2023; Sudan Tribune, "Detention and Espionage: Parallel wars wage on in Khartoum's Shadows", 12 August 2023.

118 Graphic videos have circulated online apparently showing armed fighters (often in groups) torturing civilians, usually in unknown locations that may be ghost houses.

119 Sudan Tribune, "Fatal torture of mental health patient unveiled amidst ongoing war in Sudan", 25 July 2023. In another case, Emergency Lawyers reported that Military Intelligence officers in Merowe, Northern State had arbitrarily detained and tortured a political activist. Witness testimonies are emerging of others who have been detained. For instance, see video testimony [here](#) from a fourteen-year-old boy who describes how the RSF detained him and his brothers, and forced him to work for them as a driver; and written testimony [here](#) from another individual who was arbitrarily detained for 58 days by the RSF and tortured. This individual also saw numerous other detainees (men, women, and children), some of whom apparently died as a result of torture.

thorities and other military and security actors. More recently, various resistance committees have openly opposed the war, declining to align with a particular side and publicly condemning violations committed by both the RSF and the SAF;

- b) both forces have sought to appropriate or otherwise exert control over the delivery of humanitarian aid, much of which – particularly during the earlier stages of the conflict – has been coordinated by resistance committee members¹²⁰ The SAF has expressed its intention for aid to be delivered “in coordination” with its forces,¹²¹ with Sudan’s notorious Humanitarian Aid Commission interfering in the delivery of international relief, ostensibly under the guise of regulation.¹²² The RSF has since established an equivalent body – the Sudan Agency for Relief and Humanitarian Operations – seemingly in a move to formalise its own aid regulating activities,¹²³ and
- c) each force wishes to recruit additional fighters or obstruct the other force’s ability to recruit. There have been numerous reports of the RSF attempting to forcibly recruit young able-bodied men (which fits the profile of many resistance committee members) and some suggestions that the SAF has pre-emptively arrested individuals – possibly to avoid them being recruited by the RSF.¹²⁴

Prior to the conflict, four activists including Mohamed Adam (**‘Tupac’**) and Mohamed al-Fattah were arrested and arbitrarily detained and charged with allegedly killing a police brigadier general, despite the Sudanese authorities showing no credible evidence of this.¹²⁵ While in detention, security forces extracted confessions from the four activists by torture.¹²⁶ In the early stages of the armed conflict, armed groups attacked various prisons.¹²⁷ After an attack on al-Huda prison, Tupac, al-Fattah and as many as 7,000 others were released by prison police.¹²⁸ Following his release, Tupac spoke of his willingness to turn himself in once safe to do so, and that he would demonstrate his innocence.¹²⁹ Tupac, al-Fattah and another individual, Mohamed al-Bushra, were later arrested by the redeployed Central Reserve Police, without explanation, while convening a meeting to discuss how to aid internally displaced persons (**‘IDPs’**).¹³⁰ Having again been released,¹³¹ Tupac was arrested for a third time on 13 August 2023. This time, he was held incommunicado and severely beaten, before being transported to a prison in SAF-controlled Ed-Damer, River Nile State, where he was seen “shackled and bleeding”, displaying visible signs of torture.¹³² He has since been released.¹³³

120 Mat Nashed, “Sudan ‘resistance’ activists mobilise as crisis escalates”, 22 April 2023.

121 Tweet from @hash_sudan, 22 May 2023.

122 See for e.g., Mohamed Nureldin and Khalid Abdelaziz, “Sudan ceasefire brings some respite after weeks of heavy battles”, 23 May 2023. The RSF has similarly disrupted aid. See for e.g., Statement from the Sudan Pharmacists Association, 14 May 2023 – explaining that the RSF had blocked and seized various medicine shipments. See also Dabanga, “Sudan’s warring parties ‘detain activists, hold volunteers incommunicado’”, 19 May 2023.

123 Dabanga, “Sudan’s RSF to launch own relief agency”, 13 August 2023.

124 See for e.g., Tweet from Amarat Resistance Committee, 4 May 2023; Tweet from Eddie Thomas, 12 May 2023; Tweet from the Alnozha Resistance Committee, 2 June 2023.

125 See for e.g., REDRESS, “Torture-tainted trials in Sudan”, September 2022.

126 *Ibid.*

127 Dabanga, “Attacks on prisons in Sudanese capital free thousands of inmates”, 25 April 2023.

128 *Ibid.*; Tweet from Mohamed Abdalrhman, 21 April 2023.

129 Tweet from @6a7a_hussein, 22 April 2023.

130 Mat Nashed, “Three pro-democracy activists arrested in Sudan”, 17 May 2023; Sudan Tribune, “Sudanese police deploy Central Reserve units in Khartoum”, 29 April 2023. Around this time, the Bahri Resistance Committees also reported that three of their members had also been arrested by Military Intelligence without explanation, apparently using a targeted list of individuals. A week prior, two other members of the Bahri Resistance Committees were arrested, reportedly by SAF officers, while transporting the injured and sick to a local hospital. The individuals were accused of supporting the RSF.

131 Tweet from Emma DiNapoli, 19 May 2023.

132 Dabanga, “Activist ‘Tupac’ tortured again in Sudan police custody”, 23 August 2023.

133 Dabanga, “Lawyers say ‘evidence flawed’, Sudan court releases activist Tupac”, 31 August 2023.

Violence, including sexual violence; large-scale destruction, and pillage as war booty

Amid the chaos of conflict, witnesses have documented armed fighters (usually the RSF) engaging in widespread violence, looting, destruction, and pillage, particularly in Khartoum and Darfur. These tactics, which parallel those long employed in Darfur, have resulted in further civilian deaths and serious injuries, as well as the devastation of local businesses and cultural wealth.¹³⁴ While reports attribute most of these attacks to the RSF, some opportunistic individuals and criminal gangs (including those released from prisons) may also be exploiting the absence of law enforcement actors. Based on emerging patterns, this behaviour appears largely unrelated to advancing military objectives. Instead, fighters, either in ill-discipline or as part of a systematic policy, act to gain personal wealth, obscure documentation of their activities, and inflict terror, punishment, and humiliation on Sudan's civilian population.¹³⁵

Sexual and gender-based violence

Sexual violence has been a constant feature since the start of the conflict.¹³⁶ As of late July 2023, the Combating Violence Against Women Unit ('CVAW') of Sudan had documented 108 cases of rape and sexual violence.¹³⁷ In the first two weeks of the conflict alone, CVAW reported at least 24 cases of sexual violence in Khartoum and 25 cases in Nyala, Darfur, most of which were apparently perpetrated by officers in RSF uniform.¹³⁸ In one case reported to the CVAW, a woman in Kafouri, Khartoum North was reportedly gang raped by 17 RSF officers.¹³⁹ In another case in East Sahafa, Khartoum, on 14 May 2023, RSF officers entered the area and began shooting their weapons. During the night, the officers raped a number of women. A witness described how she could hear the women screaming throughout the night.¹⁴⁰ The actual number of cases is likely to be much higher, with underreporting likely being due to a range of factors, such as shame, social stigma, fear of repercussions, survivors being trapped in areas without functioning medical services, communications outages, or the inability of survivors to access first sexual violence response kits.¹⁴¹ According to the CVAW, the cases it has registered likely represent approximately 2% of actual numbers.¹⁴²

134 On looting of banks, buildings, and shops, *see for e.g.*, Dabanga, "Libya Market plundered, police remain absent in Sudan capital", 11 May 2023. On cultural resources, *see for e.g.*, photos published in a [Tweet from Thwiba Eltahir](#), 16 May 2023 – showing that all the books in Mohamed Omer Bashir centre in Omdurman Al-Alhlia University have been burned; Reuters, "Sudan fighters take over Khartoum museum, director says", 3 June 2023; [Tweet from Isma'il Kushkush](#), 2 June 2023 – showing RSF officers entering the M. Bolheim Bioarcheology Laboratory in Khartoum.

135 *See for e.g.*, Simon Marks, "Razed Markets, Food Factories Show Sudan's Looming Hunger Crisis", 25 May 2023 – documenting the destruction of food manufacturing sites, aid warehouses, and markets, including the looting and burning down of the [SAMIL factory](#) in Khartoum (which previously produced 60% of the ready-to-use therapeutic food to treat children with severe malnutrition). *See also* SCO, [Report 01](#), 9 June 2023; [Report 002](#), 15 June 2023; [Report 003](#), 22 June 2023.

136 For allegations during the first month of the conflict, *see for e.g.*, [Tweet from Asadoya](#), 27 April 2023; [Tweet from Mohamed Mustafa](#), 8 May 2023; [Tweet from Mohamed Suliman](#), 11 May 2023; [Tweet from Mohamed Mustafa](#), 12 May 2023; [Tweet from Hazel Grace](#), 15 May 2023; Facebook Post from the Bahri Resistance Committees, 16 May 2023.

137 Dabanga, "RSF accused of killings, robberies and sexual violence in Sudan", 25 July 2023. *See here* for a recent interview with CVAW's Sulima Ishaq. The CVAW was established by a decision of Sudan's Council of Ministers in 2005 and is affiliated with the Ministry of Social Development. Its mandate is, among others, to set and implement policies, strategies and plans to combat violence against women and children.

138 Dabanga, "Sudan war: more sexual assaults, rapes reported", 28 May 2023. The Office of the UN High Commissioner for Human Rights ('OHCHR') has also "received credible reports of 18 incidents of sexual violence related to the conflict against at least 53 women and girls – the victims include at least 10 girls. In one case, 18-20 women were reportedly raped in the same attack. In almost all cases, the RSF has been identified as the perpetrator. There is little access to medical and psychosocial support and many cases remain unreported."

139 Reporting from Dahlia Eltahir, 20 June 2023.

140 [Tweet from Hazel Grace](#), 15 May 2023. For further testimonies of sexual violence in Khartoum during the conflict, *see for e.g.*, Bahira Amin, "'No woman feels safe': sexual violence rampant in Sudan war", 7 June 2023; Nils Adler and Dalia M Abdelmoniem, "'Don't let the other soldiers watch': Rape as weapon in Sudan war", 14 August 2023; Amnesty International, "Death Came to Our Home: War Crimes and Civilian Suffering in Sudan", 3 August 2023, Ch. 3.2.

141 On these issues, *see for e.g.*, SIHA Network, [Gender Briefing – Sudan](#), 10 March 2020; Najlaa Ahmed, "Conflict-Related Sexual Violence in Sudan: Women Targeted in New War", 23 June 2023.

142 Dabanga, "Young Misseriya targeted, 12 more rape cases reported in Sudan capital", 12 June 2023.

Destruction and pillage

Since the start of the conflict, looting has occurred on an unprecedented scale, especially in Khartoum. Fighters have looted valuables including cash, gold, and cars, as well as the contents of homes, offices, museums, universities, libraries, archives, and listed buildings. For instance, armed men (seemingly of the RSF) reportedly attempted to loot the Khartoum branch of the Central Bank of Sudan. Having been supposedly apprehended by SAF officials, the men set the building on fire and fled.¹⁴³ Armed men also reportedly looted at least three other banks during this period.¹⁴⁴ Humanitarian aid organisations have also consistently reported the looting of medical facilities and aid supplies.¹⁴⁵ Some goods looted by the RSF are later sold at local markets in RSF-controlled areas, sometimes colloquially termed “Dagalo markets”.¹⁴⁶ The RSF’s occupation of homes and mass appropriation of private property for their own use has the appearance of a systematic policy. A recent report estimated the value of property and goods looted during the conflict at \$40 billion.¹⁴⁷ As the conflict has developed, RSF officers have also reportedly taken numerous civilians hostage, sometimes demanding money from family members in exchange for their release.¹⁴⁸

The situation in Darfur

Two violent events are occurring concurrently in Darfur. The first is a continuation of the battle for power between the RSF and the SAF, which has many of the same characteristics as described above. The RSF, which has a considerable presence in Darfur, has fought extensively to control Darfur’s major towns and cities since the start of the conflict. In recent months, a sizeable number of RSF fighters have gradually left their positions in Khartoum. Many have likely been strategically redeployed to Darfur to strengthen the RSF’s attacks in the area. As of writing, numerous casualties have been reported as the RSF and the SAF continue to fight for control over Nyala (South Darfur), Zalingei (Central Darfur), and Al-Fashir (North Darfur).¹⁴⁹

The second is a deadly onslaught of armed attacks, sexual violence,¹⁵⁰ beatings, mass destruction, forced displacement, and looting, orchestrated by armed men against local communities. While communications outages regularly obstruct reporting in the affected areas, a clear pattern has emerged nearly unanimously from months of credible eyewitness reports, particularly from those who have been forcibly displaced. According to witnesses, the attacks are being perpetrated by the RSF and affiliated Arab militia groups,¹⁵¹ targeting in particular: (i)

143 Tweet from Wli, 28 April 2023; Tweet from Wli, 29 April 2023.

144 Tweet from SudanUprising, 29 April 2023. On looting in Khartoum, *see also*, VOA News, “‘Where is the State?’ Mass Looting Engulfs Sudanese Capital”, 19 May 2023.

145 *See for e.g.*, Gabrielle Tétrault-Farber, “WFP says \$13 million-14 million worth of food looted in Sudan”, 4 May 2023; UN News, “Guterres condemns looting of main WFP compound in Khartoum”, 8 May 2023; MSF, “MSF condemns looting of medical facilities, harassment of staff”, 23 May 2023; Mat Nashed, “As Sudan war rages, rival sides accused of looting, diverting aid”, 16 June 2023.

146 Mohammed Amin and Oscar Rickett, “Looted goods for sale in Sudan’s ‘Dagalo’ markets”, 15 July 2023.

147 Dabanga, “\$49 billion of economic loss and looted property in Sudan”, 18 July 2023.

148 *See for e.g.*, Ayin, Human Rights Hub, and the Sudan Transparency and Policy Tracker, “The Sudan Conflict Observer”, 19 June 2023; Tweet from @BAM_Committee, 25 June 2023; Tweet from Thomas van Linge, 15 June 2023; Tweet from Nuha Majmehdin, 5 June 2023; Dabanga, “Kidnapping and protection rackets rife in North Darfur”, 5 July 2023.

149 Dabanga, “Sudan war: Outcry over South Darfur Nyala ‘massacre’”, 30 August 2023; SCO, Report 010, 31 August 2023; Dabanga, “Large parts of Central Darfur capital resemble a ‘ghost town’”, 1 September 2023; “Continued battles deepen civilian suffering in North and South Darfur”, 23 August 2023.

150 On sexual violence in Darfur, *see for e.g.*, Human Rights Watch, “Darfur: Rapid Support Forces, Allied Militias Rape Dozens”, 17 August 2023; SIHA Network, “Kidnapping and Slavery: The RSF is committing more dangerous rights violations in this malign war against civilians in Sudan”, 1 August 2023; Robert Bociaga, “Sudan’s women and girls in harm’s way as conflict and forced migration take cruel toll”, 8 August 2023; Mohamed Osman, “Sudan conflict: Women tell BBC horror stories of rape”, 31 July 2023.

151 The composition of the different perpetrator groups has not been verified. It is unclear which local Arab militia groups are implicated in ongoing violations. Some tribal leaders have publicly declared their support for the RSF, though the practical realities are likely less clear-cut and more fluid.

non-Arab groups – particularly the Masalit and other ‘non-Arab’ groups;¹⁵² and (ii) lawyers, doctors, activists, and prominent community figures – particularly non-Arabs and those known for reporting human rights violations/ providing support to IDPs. These people, many of whom have long experienced such targeted violence in Darfur, now face re-traumatisation and re-victimisation.

Since 15 April 2023, RSF and allied militias have employed scorched earth tactics to decimate at least 26 cities, towns, and villages in Darfur.¹⁵³ As has been widely reported, perpetrators carried out mass killings in El-Geneina across almost two months of repeated attacks. Reports suggest that at least 1,500 people were killed,¹⁵⁴ though some suggest the true figure may be magnitudes larger (possibly as high as 10,000).¹⁵⁵ Open-source and satellite imagery also show that homes, hospitals, pharmacies, electricity stations, and markets have been razed, seemingly systematically.¹⁵⁶ The violence in El-Geneina heavily strained its communications infrastructure, with regular outages further impeding locals’ ability to report the violations that they have faced.¹⁵⁷

Some 80% of El-Geneina’s over half a million population has been forcibly displaced, many to Chad.¹⁵⁸ Public reports from those arriving in Chad describe the atrocities in graphic detail. One report, for example, describes summary executions in the streets, civilians dying in a mass drowning incident after being shot at as they attempted to cross a river, and civilians “being told to run to safety as they were sprayed with bullets”.¹⁵⁹ The 27km journey from El-Geneina to Chad has proved perilous. Many of those who attempted to flee El-Geneina were shot at, and some killed, by the RSF and allied militia groups (who control the roads linking El-Geneina and Chad and have established more than ten checkpoints en route).¹⁶⁰ The behaviour of the forces stationed at the checkpoints has been unpredictable, though witness testimonies suggest that armed men often intimidate, threaten, and loot civilians; and have killed civilians (particularly young men and boys aged 12 and older).¹⁶¹

The RSF and allied militias have been implicated in many extrajudicial executions in West Darfur. For instance, having accused the RSF and allied militias of deliberately targeting civilians during an interview with Al-Hadath, the *wali* (governor) of West Darfur was, just hours later, abducted and killed – almost certainly by the RSF.¹⁶² Since then, his brother and father were reportedly also killed,¹⁶³ and RSF General Abdul Rahman Juma (who appeared

152 See for e.g., Statement from the Dar Masalit Union, 28 April 2023; SIHA Network, “The footprints of genocide can be traced in Al Geneina”, 16 June 2023; Mat Nashed, “Fears of ethnic cleansing mount in Sudan’s West Darfur”, 17 June 2023; Amnesty International, “Sudan: Civilians at grave risk amid escalating violence in West Darfur”, 19 June 2023; Dabanga, “Horrorful testimonies on West Darfur ethnic targeting as other Masalit Sultan relative is killed”, 19 June 2023; Dabanga, “More than 5,000 reportedly killed in El Geneina ‘genocide’”, 20 June 2023; Nafisa Eltahir, Maggie Michael, and Khalid Abdelaziz, “Sudanese civilians killed and shot at as they flee Darfur city by foot”, 20 June 2023. See also Andrew McGregor, “There Will Be No Dar Masalit, Only Dar Arab”: Sudan’s Ethnic Divisions Destroy West Darfur”, 26 June 2023; testimony from a Darfuri woman who fled to Chad following attacks on El Geneina.

153 SCO, “Evidence of Alleged Widespread, Systematic, and Targeted Mass Atrocities in Darfur, 15 April – 10 July 2023”, 14 July 2023.

154 Mohammed Amin and Daniel Hilton, “In Sudan’s el-Geneina, the dead are left lying in the streets”, 27 June 2023;

155 See for e.g., The UN International Organization for Migration, “Regional Sudan Response Situation Update”, 25 July 2023 (describing an account from Dar Masalit Sultan Saad Abdul Rahman Bahr al-Din).

156 See for e.g., SCO, Report 003, 22 June 2023; Mohamed Osman, “Fighting Devastates Sudan’s West Darfur”, 1 May 2023.

157 See for e.g., Mahamat Ramadan and Nafisa Eltahir, “Sudan war spells more disaster for Darfur city on Chad border”, 26 May 2023.

158 The UN International Organization for Migration, “Regional Sudan Response Situation Update”, 25 July 2023.

159 Tamara Qiblawi, Allegra Goodwin, Nima Elbagir, and Celine Alkhaldi, “Shot at while they drowned. Executed in the desert. Those who collected the bodies recount ‘one of the worst days’ in Darfur’s genocide-scarred history”, 29 August 2023. See also, MSF, “They gave us two options: leave for Chad or be killed”, 1 August 2023.

160 Yusra Elbagir, “Refugees with gunshot wounds stream in from Darfur after violence in Sudan”, 29 May 2023; Nafisa Eltahir, Maggie Michael, and Khalid Abdelaziz, “Sudanese civilians killed and shot at as they flee Darfur city by foot”, 20 June 2023; Dabanga, “West Darfur’s El Geneina ‘obliterated’ by RSF-backed militias”, 5 June 2023.

161 *Ibid*; Hafiz Haroun and Tom Rhodes, “Every checkpoint could be your last’: The perilous road to safety for Darfuri refugees”, 15 August 2023.

162 Dabanga, “Wali of West Darfur assassinated”, 15 June 2023; SCO, Report 003, 22 June 2023. Footage of his capture showed RSF fighters forcing him into a building. See also, UN Human Rights Council, “High Commissioner for Human Rights: the Reckless, Senseless Conflict in Sudan Has Resulted in a Human Rights and Humanitarian Crisis that Is Unfolding at an Alarming Rate and on a Devastating Scale”, 19 June 2023.

163 Tweet from @azaa_aira, 21 June 2023.

in the video capturing *wali* Khamis Abakar) has seemingly assumed the role of de-facto *wali* in West Darfur.¹⁶⁴ Around this time, Prince or Amir Tariq Abdul Rahman Bahr al-Din (the brother of Dar Masalit Sultan Saad Abdul Rahman Bahr al-Din) and 16 others were killed in El-Geneina.¹⁶⁵ Al Sadiq Muhammad Ahmed, commissioner of the Humanitarian Aid Commission, was also killed.¹⁶⁶ Four lawyers were also killed in El-Geneina.¹⁶⁷ According to the Darfur Bar Association ('DBA'), "the lawyers were deliberately targeted for their involvement in reporting past incidents".¹⁶⁸ The DBA called on its members to leave the area due to increasing threats.¹⁶⁹

The RSF and allied groups have launched similar attacks elsewhere in Darfur. For instance, on 3 June 2023, armed men (reportedly of the RSF and allied militia groups) launched an assault on Kutum (North Darfur) and the nearby Kassab IDP camp.¹⁷⁰ According to a local source, at least 54 people from the camp were killed, more than 18 women were sexually assaulted, and many others injured.¹⁷¹ The armed men also looted Kutum market, as well as civilian homes and vehicles.¹⁷² Further attacks took place the following week, with at least 35 more people killed across two days.¹⁷³ North Darfur authorities subsequently declared Kutum a humanitarian disaster area.¹⁷⁴ Targeted mass killings and razings have been reported in various other parts of Darfur, including Murnei,¹⁷⁵ Tawila,¹⁷⁶ Misterei,¹⁷⁷ and Sirba.¹⁷⁸

Numerous mass graves have been identified in recent months across West Darfur. For instance, Human Rights Watch's reporting on Misterei noted that the remains of at least 59 people were buried in mass graves.¹⁷⁹ The OHCHR reported at least 87 Masalit and others were buried in a mass grave outside El-Geneina on the orders of the RSF.¹⁸⁰ Local residents claim these graves are only the "tip of the iceberg".¹⁸¹ Further mass graves have since been reported.¹⁸² In the largest known case to date, civil leaders in West Darfur uncovered 30 hidden mass graves reportedly containing approximately 1,000 bodies, seemingly victims of the attacks in El-Geneina.¹⁸³

These horrific accounts are, in many ways, evocative of those from the peak of the conflict in Darfur between March 2003 and April 2004 – a conflict that has effectively continued to this day. While the SAF initially fought the RSF in some of these areas, many SAF soldiers later appeared to withdraw from their positions or otherwise chose not to engage the perpetrators in combat. In either case, the SAF has provided very limited protection to civilians from attacks in the areas worst affected.

164 Tweet from the RSF, 24 June 2023. Note that Juma is the subject of visa restrictions from the US Department of State since 6 September 2023: U.S. Secretary of State, "Actions Against Senior Rapid Support Forces Commanders in Sudan", 6 September 2023.

165 Dabanga, "Relatives of Masalit sultan killed in renewed attacks on West Darfur capital", 14 June 2023.

166 Sudan Akhbar, *شيخ الاغنيالات يخيم على دارفور ثانية.. مقتل مسؤول بالجبهة* – on the HAC commissioner, 19 June 2023.

167 "DBA: Four lawyers slain in West Darfur 'deliberately targeted'", 21 June 2023.

168 *Ibid.*

169 Darfur24, 18 June 2023.

170 See for e.g., Oscar Rickett, "Sudan: Dozens killed as RSF attacks North Darfur's Kutum", 5 June 2023; Tweet from Eric Reeves, 4 June 2023.

171 *Ibid.*

172 *Ibid.*

173 Dabanga, "North Darfur: more people die in Kutum, fears for forced closure of El Fasher hospital", 12 June 2023.

174 Dabanga, "Kutum declared humanitarian disaster area, violence escalates in South Darfur", 14 June 2023. On other IDP camps, see for e.g., Humanity for Development & Prosperity Organization, "Report of a Rapid Needs Assessment (RNA) Carried Out At Zamzam IDP Camp and Naivasha Area and the Host Community in El Fasher Locality of North Darfur, on 22nd June 2023", 24 June 2023.

175 SCO, Report 004, 29 June 2023; Centre for Information Resilience, "Destruction of residential areas in Darfur", 28 July 2023.

176 Dabanga, "Nearly 20,000 displaced from Tawila in North Darfur clashes", 26 June 2023; Centre for Information Resilience, "Destruction of residential areas in Darfur", 28 July 2023.

177 Human Rights Watch, "Sudan: Darfur Town Destroyed", 11 July 2023.

178 SCO, Report 008, 2 August 2023; African Centre for Justice and Peace Studies, "West Darfur: Rapid Support Forces and Affiliated Militia Attack Sirba Locality Killing More than 30 Civilians and Injuring Dozens", 15 August 2023.

179 Human Rights Watch, "Sudan: Darfur Town Destroyed", 11 July 2023.

180 OHCHR, "Sudan: At least 87 buried in mass grave in Darfur as Rapid Support Forces deny victims decent burials", 13 July 2023.

181 Ayin, "Mass Graves discovered in West Darfur", 21 July 2023.

182 See for e.g., A bi-monthly newsletter issued by Fikra for Studies and Development, 16 August 2023; Yousra Elbagir, "Sudan: Mass graves in West Darfur's capital haunt remaining residents", 17 August 2023.

183 Dabanga, "More mass graves found in West Darfur, RSF accused of demolishing camps", 14 August 2023.

Consequences to date

Even by conservative estimates, over 4,000 people have been killed in Sudan since the armed conflict began.¹⁸⁴ The true number is likely much higher, owing to difficulties identifying, accessing, and retrieving bodies amidst ongoing fighting (especially in Khartoum and Darfur).¹⁸⁵ Around 5 million people have been forcibly displaced as of 11 September 2023, many to neighbouring Egypt, Chad, and South Sudan.¹⁸⁶ While many individuals fled to avoid being harmed in the crossfire of attacks, some were forcibly displaced after they or their family members were either personally targeted by either the RSF or the SAF, or perceived an imminent threat of such targeting.

The violence has largely centred around Khartoum and Darfur, though other parts of Sudan have also been badly affected by the fighting, including the three Kordofan States. Vital infrastructure has been badly damaged or destroyed, including hospitals, homes, power generation and distribution infrastructure, water treatment and supply systems, food manufacturing facilities, and communications networks. Sudan's existing humanitarian crisis has only deepened since, exacerbated by widespread food, water, and medical supply shortages, as well as civilians being badly wounded during attacks. As of writing, only 26.4% of the funds needed for the Sudan Humanitarian Response Plan have been raised and significant obstacles remain to ensure that aid can be delivered.¹⁸⁷

184 OHCHR, "Sudan: Human rights situation", 15 August 2023. On State figures, see, Nafisa Eltahir, "Sudan war's death toll in Khartoum is double official figures, independent tallies show", 28 July 2023 – which describes how Reuters' tally of death figures recorded by local activists and volunteer groups indicates that the civilian death toll for Khartoum may be more than double the State count (suggesting that the State nationwide death toll may also be an undercount). An official in Sudan's health ministry told Reuters that State figures were "the tip of the iceberg".

185 Zeinab Mohammed Salih, Ashley Kirk, and Paul Scruton, "'It's very hard to talk about': the civilian toll of fighting in Sudan", 26 May 2023.

186 The United Nations Office for the Coordination of Humanitarian Affairs ('OCHA'), "Sudan: Humanitarian Update", 31 August 2023. Others have displaced to e.g., the Central African Republic, Ethiopia, Uganda, Chad, Libya, Saudi Arabia, and the UAE.

187 OCHA, "Sudan: Humanitarian Update", 31 August 2023. On challenges to delivering aid, see for e.g., Mat Nashed, "As Sudan war rages, rival sides accused of looting, diverting aid", 16 June 2023; MSF, "Restrictions and insecurity obstruct vital medical care in Sudan", 23 June 2023.

APPLICABLE INTERNATIONAL LAW

Numerous international legal frameworks apply during the current armed conflict in Sudan, most notably:

- a) international humanitarian law ('IHL') – which applies during, and governs all parties to, armed conflict (in this case, the SAF, the RSF, and other armed groups involved);¹⁸⁸
- b) international human rights law ('IHRL') – which primarily governs the Sudanese government, and possibly other forces that exercise control over territory;¹⁸⁹ and
- c) international criminal law ('ICL') – which governs individual criminal responsibility for the commission of international crimes.¹⁹⁰

International humanitarian law

The fighting in Sudan is a non-international armed conflict ('NIAC'), and therefore governed by IHL, as:

- a) the parties are organised armies engaged in hostilities, and the violence has reached the requisite threshold of intensity for the purposes of common Article 3 and AP II – in this case, the fighting clearly goes beyond internal disturbance, tensions, riots, etc., and the hostilities are of a collective character;
- b) the RSF is an organised armed force with an established command structure and the capacity to sustain military operations.
- c) the RSF appears to exercise such territorial control as to enable them to carry out sustained and concerted military operations.¹⁹¹

188 While this report focuses on the SAF and RSF, other parties may be, or become, parties to the conflict. For instance, the SPLM-N al-Hilu has attacked the SAF in North and South Kordofan, as well as Blue Nile (though there is no indication it has aligned with the RSF). Some signatories to the Juba Peace Agreement have deployed in support of the SAF's military operations (such as the SPLM-N Agar, headed by al-Burhan's now deputy Malik Agar).

189 In relation to the human rights obligations of non-State actors, *see for e.g.*, Andrew Clapham, Human Rights Obligations of Non-State Actors (Oxford University Press 2007); OHCHR, Human rights emanating from Israeli military attacks and incursions in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip, Report of the High Commissioner for Human Rights on the implementation of Human Rights Council resolution 7/1, A/HRC/8/17, 6 June 2008, para. 9. On Sudan specifically, *see* Mohamed Abdel-salam Babiker, Application of International Humanitarian and Human Rights Law to the Armed Conflicts of the Sudan: Complementary or Mutually Exclusive Regimes? (Intersentia 2007).

190 There is also a body of domestic Sudanese law that applies concurrently, on which *see* paras. 114 to 122.

191 *See* "How is the Term "Armed Conflict" Defined in International Humanitarian Law?", International Committee of the Red Cross ('ICRC') Opinion Paper, March 2008, for a summary of what constitutes a NIAC under common Art. 3 to the four Geneva Conventions of 1949, Art. 1 of AP II, and persuasive jurisprudence of the International Criminal Tribunal for the former Yugoslavia ('ICTY'). For analysis on how the conflict constitutes a NIAC, *see for e.g.*, Jelena Pejic, "The Fighting in Sudan is an Armed Conflict: Here's What Law Applies", 20 April 2023; Geneva Academy, "RULAC Classifies a New Non-International Armed Conflict in Sudan", 2 May 2023.

Sudan is a party to the four Geneva Conventions of 1949 ('GC I – IV') and Additional Protocols I and II of 1977 ('AP I – II')¹⁹² which collectively codify the treaty IHL that applies during a NIAC. These treaties are supplemented by other sources of international law, including customary IHL.¹⁹³

As parties to a NIAC, both the SAF and the RSF are bound by IHL, the core principles of which are:

- a) **Distinction** – Both the SAF and RSF must “at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”¹⁹⁴ In this regard:
 - 1) a “civilian” means any person who is not a member of the armed forces or an organised armed group.¹⁹⁵ Civilians are protected against attack, unless and for such time as they take a direct part in hostilities;¹⁹⁶ and
 - 2) a “civilian object” means any object that is not a military objective.¹⁹⁷ Military objectives are “those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”¹⁹⁸
- b) **Proportionality** – Where, despite taking all feasible measures, the infliction of incidental harm on civilians or civilian objects “cannot be avoided”, the attacking side must refrain from “any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”¹⁹⁹
- c) **Necessity** – The SAF and the RSF may only resort to those means and methods of warfare that are necessary to achieve the legitimate purpose of a conflict (i.e., to weaken the military forces of the other side). This does not permit measures that would otherwise be prohibited under IHL.²⁰⁰
- d) **Prohibition of superfluous injury and unnecessary suffering** – Customary international law ('CIL') prohibits, during NIACs, the use of means and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering.²⁰¹

192 Sudan acceded to the GC I – IV on 23 September 1957 (on which, see the UN Treaty Status for GC I, GC II, GC III, and GC IV) and ratified AP I and AP II on 7 March and 13 July 2006 respectively (on which, see the UN Treaty Status for AP I and AP II). States are also bound by other treaties that apply during NIACs, including those prohibiting or restricting certain types of weapons and regulating the conduct of hostilities, such as the Hague Conventions of 1899 and 1907 (the provisions of which are considered as embodying rules of CIL).

193 See for e.g., Introduction to the ICRC's Customary IHL Database ('CIHL'),

194 Rules 1 and 7 CIHL. While a draft of AP II provided at Art. 4(1) that “In order to ensure respect and protection for the civilian population [...] the Parties to the conflict shall at all times distinguish between the civilian population and combatants”, this was ultimately deleted having failed to obtain the necessary majority. AP II contains rules that reflect the principle of distinction, including Arts. 13 and 14 (protection of the civilian population and protection of objects indispensable to the survival of the civilian population, respectively).

195 Rule 5 CIHL. AP II does not define civilians. For context, a draft of AP II initially defined civilian as “anyone who is not a member of the armed forces or of an organized armed group”. While this definition was ultimately dropped from the text of AP II, it has still been broadly accepted as the applicable definition for NIACs. Art. 13 provides general protection to the civilian population and individuals against the dangers arising from military operations. This protection is enjoyed unless and for such time as civilians take a direct part in hostilities.

196 Rule 6 CIHL.

197 Rule 9 CIHL.

198 Rule 8 CIHL; See also Art. 13, AP II on protection of the civilian population.

199 Rules 14, 18 and 19 CIHL. See also, the Martens Clause (fn 198) which arguably requires that the principle of proportionality cannot be ignored.

200 ICRC, “The Principles of Humanity and Necessity”.

201 Rule 70 CIHL. This prohibition was expressly included by consensus in the draft of AP II but was ultimately removed (though there was no indication of any objection to the rule itself). See also: (i) the principle of precaution – the need to take constant care [...] to spare the civilian population, civilians and civilian objects (Rule 15 CIHL); and (ii) the Martens Clause, which is incorporated in each of GC I-IV and AP II, and provides that, in cases not covered by a particular law, humans still benefit from the protection of the principles of humanity and the dictates of the public conscience (effectively, the Martens Clause mandates a baseline level of protection which applies to all, regardless of any gaps in the application of treaty IHL or the legal status of a particular party).

As part of talks mediated by the US and Saudi Arabia in Jeddah, Saudi Arabia, representatives from the SAF and the RSF signed a declaration on 11 May 2023 (the ‘**Declaration**’) outlining their supposed commitment to basic IHL principles, including allowing safe passage for civilians, withdrawing forces from vital civilian infrastructure, and paving the way for a possible short-term ceasefire to enable the delivery of humanitarian aid.²⁰² The Declaration, which itself is of declaratory/hortatory effect,²⁰³ changed little on the ground. Neither side complied with the Declaration, nor engaged sincerely in the overarching ceasefire discussions. Instead, both forces reportedly continued advancing their respective military positions and committed further violations of IHL.²⁰⁴ The ceasefires eventually agreed were patchy at best.²⁰⁵

International human rights law

Sudan is a State party to several IHRL treaties, including:

- a) The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (‘**UNCAT**’);²⁰⁶
- b) The International Convention for the Protection of All Persons from Enforced Disappearance (‘**ICPPED**’);²⁰⁷
- c) The International Covenant on Civil and Political Rights (‘**ICCPR**’);²⁰⁸ and
- d) The International Covenant on Economic, Social and Cultural Rights (‘**ICESCR**’).²⁰⁹

The protections afforded by IHRL (including the aforementioned treaties) apply in peacetime as well as armed conflict,²¹⁰ particularly non-derogable rights protected by such treaties as well as Sudan’s constitutional Bill of Rights.²¹¹ During a NIAC, both IHL and IHRL apply concurrently. These regimes are largely complementary,²¹² though two distinctions should be made for present purposes:

- a) Whereas IHL binds the SAF and the RSF in their capacity as parties to a NIAC, IHRL imposes obligations on Sudan as a State. Prior to the current conflict, Generals al-Burhan and Hemedti served as Chair and Vice Chair of the Sovereign Council respectively, though neither were (or are) legitimate State representatives, having

202 See [English](#) and [Arabic](#) versions of the Declaration.

203 Both forces were already bound by the rules of IHL.

204 See for e.g., [Tweet from the U.S. Embassy Khartoum](#), 23 May 2023; [Tweet from the U.S. Embassy Khartoum](#), 26 May 2023.

205 See for e.g., Rayhan Uddin, “Sudan: Why are ceasefires constantly being broken?”, 3 May 2023.

206 Sudan [ratified](#) the UNCAT on 10 August 2021.

207 Sudan [ratified](#) the ICPPED on 10 August 2021.

208 Sudan [ratified](#) the ICCPR on 18 March 1986.

209 Sudan [ratified](#) the ICESCR on 18 March 1986. Sudan is also party to other IHRL treaties, including the [African Charter on Human and Peoples’ Rights](#) (‘**ACHPR**’), the [International Convention on the Elimination of All Forms of Racial Discrimination](#) and the [Convention on the Rights of the Child](#). Notably, Sudan has not yet ratified the Optional Protocols to the ICCPR, the ICESCR, and the UNCAT and is not yet a party to the Convention on the Elimination of All Forms of Discrimination Against Women (the Council of Ministers had endorsed a recommendation to accede to CEDAW on 27 April 2021, including reservations to Arts. 2, 16, and 29(1). There is uncertainty as to the status of this today). While IHRL primarily derives from international and regional treaties, it is similarly supplemented by further sources of international law, e.g., customary IHRL.

210 See for e.g., [Human Rights Council Resolution 9/9](#); General Comment No. 31, the UN Human Rights Committee, CCPR/C/GC/36, 29 May 2004, on the Nature of the General Legal Obligation Imposed on States Parties to the International Covenant on Civil and Political Rights. For more detail on the interplay between IHL and IHRL, see OHCHR, “[International Legal Protection of Human Rights in Armed Conflict](#)”, 2011

211 Ch. 14 of the 2019 Constitutional Document.

212 See for e.g., Mohamed Abdelsalam Babiker, [Application of International Humanitarian and Human Rights Law to the Armed Conflicts of the Sudan: Complementary or Mutually Exclusive Regimes?](#) (Intersentia 2007).

come into power by means of a military coup. Since both have purported to be State actors, and in the absence of a civilian government, both the SAF and the RSF could conceivably be held responsible for human rights violations.²¹³

- b) Whereas IHL is envisaged specifically to apply in situations of armed conflict (and hence generally has a non-derogable nature), most IHRL treaties allow States to derogate from certain obligations in emergency situations, provided that certain conditions are strictly met.²¹⁴ At a high level, the situation must: (i) constitute “a threat to the life of the nation”; (ii) be notified, together with any abrogation, to the relevant UN treaty bodies; and (iii) only be invoked insofar and for as long as is “strictly necessary”.²¹⁵ As of writing, there is no clear evidence that the Sudanese authorities have purported to derogate from any of their IHRL obligations.²¹⁶ Crucially, some core human rights, including the prohibition of torture and cruel, inhuman or degrading treatment or punishment,²¹⁷ the right to life,²¹⁸ and judicial guarantees²¹⁹ remain non-derogable regardless of the circumstances.

International criminal law

There are certain international crimes, particularly genocide, war crimes and crimes against humanity, for which individuals may have direct individual criminal responsibility under ICL. These crimes, as well as torture and enforced disappearance, are crimes subject to universal jurisdiction – which allows (if not obliges) States to assert jurisdiction over them and prosecute these offences before their ordinary domestic criminal courts. This is true even if the offence was committed outside of the State and neither the perpetrator nor the victims are nationals of the State.²²⁰

Alongside CIL, this report refers to the Rome Statute of the International Criminal Court (the ‘ICC Statute’) when articulating elements of international crimes. Although Sudan signed the ICC Statute on 8 September 2000, it subsequently notified the Secretary-General that it did not intend to become a State party.²²¹ Since then, Sudan’s Council of Ministers unanimously approved the ratification of the ICC Statute in August 2021.²²² There is uncer-

213 Further analysis is required here, including regarding the legal significance (if any) of al-Burhan removing Hemedti from his position in the Sovereign Council and the SAF declaring the RSF to have rebelled against the State. In any event, IHRL treaties generally contain positive obligations obliging States to protect those within their jurisdiction from certain harmful conduct committed by non-State actors. E.g., Art. 2(1) of the UNCAT (“Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”), Art. 2(1) ICCPR (Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind [...]”).

214 Though not the ACHPR, to which Sudan is a party.

215 See General Comment No. 29 – States of Emergency (Article 4 of the ICCPR), the UN Human Rights Committee, CCPR/C/21Rev.1/Add.11, 31 August 2001, which is the authoritative interpretation of the derogation provision within the ICCPR, and is of significant persuasive value when addressing emergency situations in the context of other IHRL treaties.

216 As an illegitimate State representative (having come into power by way of a military coup), it is unclear whether any derogation authorised by al-Burhan would be recognised as legitimate. For instance, any derogation or declaration of emergency must, under the 2019 Constitutional Document, be endorsed or validated by a Legislative Council – which has not yet been formed.

217 UNCAT, Art. 2(2). Some IHRL treaties do not contain derogation clauses (e.g., the ACHPR).

218 General Comment No. 36 – Article 6: right to life, the UN Human Rights Committee, CCPR/C/GC/36, 3 September 2019.

219 General Comment No. 29 – States of Emergency (Article 4 of the ICCPR).

220 While universal jurisdiction can play an essential role in combating impunity for the most serious crimes, it is rarely exercised. The domestic legal framework and practical factors that affect the likelihood of a State exercising universal jurisdiction (e.g., the relevance of perpetrator presence within the State, political considerations, diplomatic relations, prosecutorial appetite/funding) vary significantly across different States. See the ‘Universal Jurisdiction Law and Practice’ briefing papers authored by Trial International and the Open Society Justice Initiative, which provide a helpful overview of the key considerations across 11 domestic universal jurisdiction regimes, including England and Wales.

221 Sudan: Notification, Reference: C.N.612.2008.TREATIES-6, 27 August 2008.

222 Dabanga, “Sudan Cabinet unanimous on bill to join Rome Statute of ICC”, 3 August 2023.

tainty as to the status of this today, though it is generally considered that Sudan is currently not a State party. In these circumstances, Art. 18 of the Vienna Convention on the Law of Treaties 1969 (which Sudan ratified on 18 April 1990) may apply, which obliges States that have signed a treaty or expressed their consent to be bound by a treaty to “refrain from acts which would defeat the object and purpose of the treaty”. Furthermore, the ICC may – owing to a referral by the UN Security Council on 31 March 2005 – exercise its jurisdiction over crimes listed in the ICC Statute committed in the “situation in Darfur since 1 July 2002”.²²³ The ICC is currently investigating alleged crimes committed in Darfur since 1 July 2002, as well as since the start of the current armed conflict on 15 April 2023. While the ICC Statute broadly reflects CIL in respect of the issues covered in this report, any significant inconsistencies between the two are flagged.

223 UN Security Council, Resolution 1593 (2005), 31 March 2005, S/RES/1593 (2005).

INTERNATIONAL CRIMES



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A Sudanese man who fled the conflict in Sudan's Darfur region, and was previously internally displaced in Sudan, walks past makeshift shelters near the border between Sudan and Chad, while taking refuge in Borota, Chad, on May 13, 2023. REUTERS/Zohra Bensemra.

Introduction

This report examines allegations that members of both forces have committed international crimes. To do so, it relies on strong *prima facie* evidence. Additional analysis and evidence are required to corroborate witness accounts and properly attribute violations to specific individuals and their respective forces. This process is particularly challenging in the current context because: (i) some information is only reported informally, for instance through social media websites (mainly Twitter and Facebook) as well as private WhatsApp groups;²²⁴ (ii) information is often shared in the form of photographs and videos, which are usually not timestamped and whose veracity sometimes needs to be further confirmed; (iii) due to widescale forced displacement, it can be difficult to contact witnesses for further information or corroborate multiple witness accounts in respect of the same incident; (iv) while a wide array of data is publicly available from a range of data sources, detailed cross-referencing is required between different sources in order to draw robust conclusions; and (v) Sudan's security and armed

²²⁴ Supplementing work by specialist Sudanese documentation CSOs, open-source evidence is being informally collated on social media platforms (see for e.g., [#الدعم السريع يستريح بيوتنا](#), [#RSF_loots_houses](#), [#جرائم_الدعم_السريع](#), and [#KeepEyesOnSudan](#)). See also: (i) recent reports prepared by the Youth Citizens Observers Network, which has been monitoring violations against civilians by both sides; and (ii) [Sudan Shahid](#) – an interactive map that draws on a unified database of evidence, including open-source media verified by the Centre for Information Resilience.

forces regularly wear uniforms other than their own, or no recognisable uniform at all;²²⁵ Further evidence is also needed to verify what specific orders have been issued by each side's leadership, who is ultimately directing military operations in different areas, and to what extent are fighters complying with their superior's orders/chain of command, This is particularly the case for the RSF as many RSF secondees have returned to the SAF, including a sizeable number of senior officers.²²⁶

Recognising these challenges, this report focuses on events reported by trusted sources, including key Sudanese and international civil society organisations ('CSOs'), experienced Sudan analysts, local resistance committees, reputable news outlets, and UN organs. This allows for urgent consideration of serious allegations being raised unanimously by credible sources. The overarching patterns identified in this report are all consistent with information received by REDRESS from trusted individuals in Sudan. Given the findings made of possible international crimes in Sudan, in this report and elsewhere, third States should rapidly scale up material support for Sudanese documentation organisations – both to strengthen the quality of open-source information and witness evidence, as well as to enhance overarching coordination of the various documentation endeavours.

For ease of review, this report considers – in turn – war crimes, torture, enforced disappearance, crimes against humanity, and then genocide, as the analysis of war crimes, torture, and enforced disappearance turns on the specific elements of these offences in isolation. In contrast, crimes against humanity and genocide can (and often do) involve the commission of multiple different offences committed with a specific overarching intent or as part of a specific type of attack. This requires detailed consideration of the patterns of offences being reported, which naturally follows once the elements of key individual underlying offences have been examined, among other considerations.

The ICC Statute confirms that the ICC has jurisdiction in respect of war crimes “in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes”.²²⁷ While a pattern of possible war crimes is evidently emerging from the current conflict, further analysis is required of the nature and frequency of these incidents, the nature of the specific offences as well as the nexus of the crimes committed and actors to the conflict. Members of the SAF and RSF leadership could also be liable for these offences under the doctrine of command responsibility.²²⁸ Finally, while this report summarises the key alleged international crimes being reported, regard should also be given to the applicable admissibility thresholds for evidence across different domestic and international accountability mechanisms, in addition to the required criteria on jurisdiction and complementarity.

225 See for e.g., Tweet from Yassmin Abdel-Magied, 15 April 2023; Tweet from @daniel_van0, 29 May 2023. This practice was also common prior to the current conflict – see for e.g., See for e.g., REDRESS, “Torture-tainted trials in Sudan”, September 2022.

226 Sudan Tribune, “Heavy fighting in Khartoum continues unabated, 16 days after”, 1 May 2023; Ayin, Human Rights Hub, and the Sudan Transparency and Policy Tracker, “The Sudan Conflict Observer”, 19 June 2023. In May 2023, four Generals on secondment to the RSF were removed from their positions having apparently disobeyed an order to return to the SAF.

227 Art. 8(1), ICC Statute.

228 For a recent analysis of command responsibility in the Sudanese context, see the Public International Law & Policy Group and Orrick, Her-
rington & Sutcliffe, “Prosecuting Leaders in Sudan Under Command Responsibility for Atrocity Crimes Committed by Their Subordinates”
July 2023.

WAR CRIMES

War crimes committed during a NIAC are “serious violations” of common Article 3 to the four GCs and other serious violations of the laws and customs of war within the established framework of international law.²²⁹ A perpetrator of war crimes may have individual criminal responsibility.²³⁰ There is a large body of *prima facie* evidence suggesting that war crimes have been committed by both the RSF and the SAF during the current armed conflict in Sudan.

Intentionally directing attacks against civilians and protected objects

IHL limits permitted attacks to military objectives.²³¹ It is a war crime to intentionally direct attacks against certain protected objects, including hospitals, places where the sick and wounded are treated, buildings dedicated to religion, and historical monuments.²³² Members of both forces are accused of unlawfully attacking protected objects.²³³ Fighters have also targeted so-called dual use objects which benefit both civilians and combatants.²³⁴ While such objects may qualify as military objectives (in principle permitting the forces to launch targeted attacks against them), such attacks must still be proportionate and not indiscriminate.²³⁵

Although further analysis is required, the scale and gravity of the damage caused to date, particularly devastating damage to civilian infrastructure in Khartoum and Darfur, displays the character of attacks that were generally carried out without due regard to IHL principles. Certainly, it would be very challenging for the forces to demonstrate how the sheer nature and scale of incidental civilian harm and damage caused by their attacks in Khartoum and Darfur was not excessive in relation to any concrete military advantage that they had anticipated.

There is also evidence that both sides may have, on various occasions, made the civilian population, as well as medical or religious personnel or objects, the object of attack.²³⁶ Medical personnel, like hospitals, are afforded special protection under IHL, and so must be respected and protected in all circumstances.²³⁷ It is also prohibited to punish medical personnel for performing ethical medical duties (e.g., the SAF cannot punish a doctor for treating an injured RSF fighter, and vice versa).²³⁸

While some of the attacks in Khartoum have been commissioned under the guise of seeking some form of military advantage,²³⁹ reports in Darfur suggest that civilians and civilian objects are being intentionally targeted with little (if any) regard to military advantage. Instead, many attacks appear to be perpetrated to inflict harm and

229 See for e.g., Arts. 8(2)(c) – (e), ICC Statute; Rule 156 CIHL.

230 Ch. 43-44 CIHL; Art. 25-33, ICC Statute.

231 Rule 7-9 CIHL.

232 Art. 8(2)(e)(iv), ICC Statute. See also, Rule 35 CIHL.

233 On historical monuments, see the 1954 Hague Convention on Cultural Property, to which Sudan is a State Party. Heritage for Peace has launched the Sudan Heritage Protection Initiative, which reports on ongoing damage to Sudan’s heritage.

234 See for e.g., Human Rights Watch, “Sudan: Explosive Weapons Harming Civilians”, 4 May 2023.

235 Rule 8 CIHL.

236 Rule 156 CIHL. See also, Art. 8(2)(e)(i) and (ii), ICC Statute.

237 AP II, Art. 9(1); Rule 25 CIHL.

238 Rule 26 CIHL.

239 However, there have also been targeted non-military attacks by fighters in Khartoum against civilians and civilian objects.

suffering on local communities, especially non-Arab groups. To demonstrate whether such conduct constitutes a war crime (as for all the violations reported in this section), it is necessary to assess in further detail whether a sufficient nexus exists between the conduct and the overarching NIAC.²⁴⁰ At a high level, much of this conduct has arguably taken place in the context of, and is associated with, the NIAC. For instance, these attacks: (i) are often perpetrated by uniformed RSF members; (ii) occur mostly in areas where fighting is (or has previously taken place) between the two forces; and (iii) may form part as a broader strategy to forcibly displace locals and integrate their forces further into these areas (gaining military leverage in the process).

Violence to life and person (including torture, rape, and murder) and taking of hostages

There is evidence that fighters (particularly from the RSF) have committed acts of violence to life and person (including torture, rape, and murder) and have taken various hostages.

Torture

The war crime of torture has five key elements:

- a) Conduct inflicting severe pain or suffering, whether physical or mental;
- b) Element of intent (the perpetrator intended to inflict severe pain);
- c) Specific purpose (e.g., gaining information, as a punishment, intimidation, coercion, among others);
- d) The victim was *hors de combat*, a civilian, medical personnel or religious personnel taking no active part in the hostilities (and the perpetrator was aware of the factual circumstances that established this status); and
- e) The conduct took place in the context of and was associated with the NIAC (and the perpetrator was aware of the factual circumstances establishing the existence of the armed conflict).²⁴¹

In the past, Sudan's military, security, intelligence, and police forces have been regularly implicated in the use of torture and ill-treatment.²⁴² Now, both the RSF and the SAF are again accused of arbitrarily detaining and torturing civilians. Some of these accounts clearly describe fighters having inflicted severe pain and suffering on civilians. For instance, in the examples described above at paras. 44 and 46 respectively: (i) a person with a pre-existing mental health condition was subjected to "severe torture" by the RSF, which ultimately killed him; and (ii) an activist was held incommunicado and severely beaten before being transferred to a prison in a SAF-controlled area, "shackled and bleeding".

Based on emerging patterns, these requirements have likely been met in various cases. It should be uncontroversial that fighters in Sudan are generally aware of the factual circumstances establishing many of these individuals as civilians, as well as those establishing the existence of an armed conflict. The cases being reported so far all suggest that the conduct was intentional and for a specific purpose – e.g., to gain information on the individual's

²⁴⁰ In particular, the conduct must "take place in the context of" and "be associated with" the NIAC.

²⁴¹ Art. 8(2)(c)(i)-4, Elements of Crimes.

²⁴² See for e.g., fn 8.

activities, or to punish them for supposedly supporting the other side.²⁴³ There are therefore numerous *prima facie* cases of torture as a war crime.

Rape

As described above at para. 48, at least 108 cases of sexual and gender-based violence have been documented and verified since the conflict began, though it is very likely that most cases have not yet been reported and documented. In this context, there is strong evidence that the relevant perpetrators (mostly the RSF) have committed the war crime of rape.²⁴⁴ The following constitutes rape as a war crime for the purposes of the ICC Statute:²⁴⁵

- a) invasion of the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body;
- b) the invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.²⁴⁶

The accounts documented to date (see e.g., para. 48 and fns. 137 and 147) suggest that this offence has been committed on numerous occasions, particularly in Khartoum and Darfur. Further evidence is required to establish the nexus for each case to the armed conflict, though numerous publicly reported cases present strong evidence in this regard – including that perpetrators often wear uniforms during attacks and sexual violence has been weaponised by fighters as part of wider, often targeted, attacks. It is also very challenging for survivors to identify specific perpetrators by name and most cases are reportedly not able to be processed due to unavailability of medical services and trained personnel able to undertake documentation.²⁴⁷

Murder

There is strong evidence that forces (particularly the RSF) have committed the war crime of murder. For instance, the RSF and allied militias have carried out various extrajudicial executions in West Darfur, targeting civilians including non-Arabs and people of status (see para. 54). According to the Elements of Crimes for the International Criminal Court (**‘Elements of Crimes’**), the war crime of murder is committed when a perpetrator kills one or more civilians (or *hors de combat*, medical personnel, etc.), the conduct takes place in the context of, and was associated with, the NIAC, and the perpetrator was aware of the facts establishing the existence of their non-combatant status and the NIAC.²⁴⁸

243 If the purpose requirement is not met, the conduct could still constitute the war crime of cruel treatment (Art. 8(2)(c)(i), ICC Statute)

244 Rule 156 CIHL; Art. 8(2)(e)(vi), Elements of Crimes.

245 Art. 8(2)(e)(vi)-1, Elements of Crimes.

246 As above, the conduct must also take place in the context, and must be associated with, the NIAC, and the perpetrator must have been aware of the factual circumstances establishing the existence of an armed conflict.

247 Najlaa Ahmed, “Conflict-Related Sexual Violence in Sudan: Women Targeted in New War”, 23 June 2023; Mohamed Osman, “Sudan conflict: Women tell BBC horror stories of rape”, 31 July 2023.

248 Rule 156 CIHL; Art. 8(2)(c)(i), ICC Statute; Art. 8(2)(c)(i)-1, Elements of Crimes.

Taking hostages

The RSF is also accused of taking civilians as hostages, sometimes expressly demanding money from family members as a condition of their release (see para. 49 and fn. 147). Others (particularly young men) have reportedly been taken as hostages at checkpoints during the journey from West Darfur to Chad. Many of these cases suggest that the relevant officers have committed the war crime of taking hostages, the elements of which are:

- a) the perpetrator seized, detained or otherwise held hostage one or more persons;
- b) the perpetrator threatened to kill, injure or continue to detain such person(s);
- c) the perpetrator intended to compel a State, international organisation, person or business to act or refrain from acting as an explicit or implicit condition for the safety or the release of such person(s);
- d) such person(s) were *hors de combat*, civilians, medical personnel or religious personnel taking no active part in the hostilities;
- e) the perpetrator was aware of the factual circumstances establishing this status; and
- f) the conduct took place in the context of and was associated with a NIAC (and the perpetrator was aware of factual circumstances establishing the existence of an armed conflict).²⁴⁹

Forced displacement

Around 5 million people have been displaced since the conflict started.²⁵⁰ During a NIAC, it is a war crime to order the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand.²⁵¹ There is strong *prima facie* evidence that this offence has been committed.

For instance, the RSF has forcibly removed civilians from their homes and terrorised civilians into leaving their communities, especially in Darfur (see paras. 50 to 55) as well as Khartoum. Based on witness accounts, many of these instances cannot be justified by the security of the civilians involved or by military necessity. In Darfur, much of the displacement has been directed by the RSF and allied militia groups in targeted attacks against specific groups within the civilian population. While there may conceivably be strategic value to occupying these areas (particularly to increase their negotiating leverage), no evidence has been presented of ‘imperative military reasons’ that could justify this behaviour and, in any event, the deliberate and targeted nature of the violence against civilians violates fundamental IHL norms.

249 Art. 8(2)(c)(iii), ICC Statute; Art. 8(2)(c)(iii), Elements of Crimes. See also, Rule 156 CIHL.

250 OCHA, “Sudan: Humanitarian Update”, 31 August 2023.

251 Art. 8(2)(e)(viii), ICC Statute.

Human shields

The RSF has been accused of intentionally occupying civilian-populated buildings as a means of trying to prevent its forces from being targeted by the SAF. RSF soldiers and officers have also often been identified among civilian populations, wearing civilian clothes without distinctive uniforms/emblems and driving civilian cars, further exposing these populations to the risk of military attacks and the dangers of armed hostilities.

The use of ‘human shields’ during a NIAC is absolutely prohibited as a matter of customary IHL, including under the principle of distinction.²⁵² There is strong *prima facie* evidence that RSF fighters have intentionally deployed around civilians and civilian objects as part of a systematic plan or policy with the specific intent of preventing them from being targeted by the SAF. For instance:

- a) there is a large body of witness reports, photographs, and videos, showing men in RSF uniform forcibly occupying civilian homes, hospitals, religious buildings, monuments, buildings of cultural heritage, and other civilian objects. The nature of this conduct has the appearance of widespread, systematic, and coordinated military action directed by (or at least known to) commanders and civilian advisors to the RSF, particularly given that it has been regularly reported since the very start of the conflict, and a substantial number of RSF officers have been implicated in this practice, particularly in Khartoum;
- b) given the SAF’s aerial superiority, there is a clear military advantage to the RSF deploying around civilians and civilian objects, namely to disincentivise the SAF from targeting RSF officers via air strikes; and
- c) it is often unclear what concrete military advantage occupying fighters would obtain by deploying around civilians and civilian objects. While some positions may be advantageous (e.g., due to their proximity to military targets, the availability of supplies, and the opportunity to treat wounded troops), many of the RSF’s deployments in Khartoum do not appear to be obviously limited to such purposes.

The use of human shields during an international armed conflict constitutes a war crime.²⁵³ While there is an ongoing debate on its status as a distinct war crime during NIACs (and it is not recognised as such in the ICC Statute), the underlying conduct may also constitute other war crimes. For instance, it could constitute the war crime of taking hostages, the key elements of which are described at para. 85. The above conduct appears intended to compel the SAF to refrain from attacks on the relevant buildings as an implicit condition to secure the safety of the proximate civilians. The key outstanding issue is whether the RSF can be considered to have ‘seized, detained or otherwise held hostage’ these civilians. This would appear to be the case – particularly where, when occupying buildings, the RSF has detained civilians or actively obstructed them from leaving. In such cases, there is a strong argument that RSF members have committed the war crime of hostage-taking.²⁵⁴

252 Rule 97 CIHL. See also, AP II, Art. 13(1). Although Art. 13 does not expressly prohibit the use of human shields, State practice is generally considered to have established this prohibition as a norm of IHL during NIACs.

253 See for e.g., Art. 8(2)(b)(xxiii), ICC Statute (specifically, “[u]tilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations”).

254 In any case, it could be argued that, through their occupation of civilian buildings, the RSF is effectively detaining all of the building’s occupants who, given the risk of imminent SAF attacks, cannot safely leave. A similar argument could be made for those who are physically unable to leave the building, e.g., due to illness or disability.

Indiscriminate attacks

Both forces are accused of using extensive and indiscriminate attacks (i.e., those of a nature that strike military objectives and civilians/civilian objects without distinction).²⁵⁵ In particular, the SAF has conducted various air strikes, and both forces have used explosive weapons, in each case in principally civilian zones. As a matter of IHL, it is a war crime to launch an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause excessive incidental civilian, loss, injury, or damage.²⁵⁶

There is strong evidence that both forces may have breached this prohibition on various occasions given their frequent use of explosive weaponry in dense civilian areas, such as aerial bombs, artillery, rockets, and other missiles. Many of these attacks have taken place without the appearance of due regard to the principles of proportionality, precaution, and distinction.²⁵⁷ Little evidence has been presented to date that these attacks could be justified by military necessity. Crucially, while the RSF's apparent use of human shields is clearly unlawful under IHL, the SAF is still bound by its own IHL obligations when attacking.²⁵⁸

Occasionally, the SAF has issued notices informing civilians shortly prior to planned airstrike activity.²⁵⁹ In one particular instance, SAF Lt. General Yasir al-Atta (also a member of the Sovereign Council) warned civilians to stay away from homes that the RSF has occupied "[b]ecause at this point, we will attack them anywhere".²⁶⁰ In the few cases where the SAF has given an air strike notice, it has generally appeared insufficient to discharge its IHL obligations of proportionality, precaution, and distinction. Further, Art. 17 of AP II generally prohibits the forced movement of civilians. While an exception can be made if "the security of the civilians involved or imperative military reasons so demand", the SAF's conduct does not appear to have been limited in this respect. The SAF would need to ensure that, where civilian displacements are ordered, "all possible measures" are taken to ensure the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety, and nutrition.²⁶¹ In practice, the SAF's air strikes have consistently taken place with limited (if any) time to move, and without any support for civilians to safely evacuate the area (which is often occupied by RSF officers, may house unexploded ordnance or badly damaged infrastructure, and could be proximate to active fighting between the two forces).

The ICC Statute recognises that, during times of international armed conflict, it is a war crime to employ certain weapons, projectiles and material and methods which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate.²⁶² This is not expressly the case during NIACs, though the ICC Statute does recognise as war crimes: (i) serious violations of common Article 3 to the four GCs, including violence to life and person (including murder, mutilation, cruel treatment, and torture);²⁶³ and (ii) intentionally directly attacks against civilians or projected objects, provided they are not military objectives (in each case, see immediately below).²⁶⁴

255 Rules 11-13 CIHL. This prohibition is closely linked to the principle of proportionality.

256 Rule 156 CIHL.

257 See for e.g., Zeinab Mohammed Salih, "Sudan: 27 reported killed in shelling of market in poor area south of Khartoum", 1 June 2023.

258 The SAF must still comply with the principles of distinction, equality, and non-reciprocity (described above).

259 See for e.g., Tweet from Sky News Arabic, 15 April 2023; Tweet from Sudan In the News, 21 April 2023.

260 Reuters, "Ceasefire agreed as air strikes pummel Sudanese capital, killing 17", 17 June 2023.

261 Art. 17 of AP II.

262 Art. 8(2)(b)(xx), ICC Statute; though note this is only the cases provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to the ICC Statute, by an amendment in accordance with the relevant provisions of the ICC Statute.

263 Art. 8(2)(c)(i), ICC Statute.

264 Art. 8.2(e)(i), (iv), ICC Statute. The list of projected objects is set out in para. 74.

Pillage

There is strong evidence that fighters (particularly the RSF) have committed the war crime of pillaging.²⁶⁵ The key requirements of this offence are that the perpetrator appropriates certain property, without consent, intending to deprive the owner and to appropriate it for their private or personal use, in the context of, and associated with, the NIAC.²⁶⁶

The RSF is accused of widespread theft from local homes, factories, businesses, markets, banks, churches, academic institutions, and humanitarian aid stores (see e.g., para. 49). While appropriations justified by military necessity do not constitute the war crime of pillaging,²⁶⁷ it is highly unlikely that many of the appropriations reported to date can be justified in this manner. The frequency and nature of the looting (widespread theft of vehicles, money, gold, and other valuables) suggests that a significant number of the incidents are for personal gain. These actions, which are common practice and well-publicised, have also seemingly been committed with the knowledge of the relevant RSF commanders – possibly part of a policy to incentivise RSF fighters to continue fighting. Videos circulating on social media indicate a culture within the RSF that justifies acts of pillage as war booty (the spoils of war).²⁶⁸

Under the principle of command responsibility, military commanders are criminally responsible for crimes committed by forces under their effective command and control, or effective authority. In this case, the relevant RSF commanders would have known (or ought to have known) that their forces were committing acts of pillage and ultimately failed to take all necessary and reasonable measures to prevent or repress their commission, or to submit the matter for investigation and prosecution.²⁶⁹

²⁶⁵ Rule 156 CIHL; Art. 8(2)(e)(v), ICC Statute.

²⁶⁶ *Ibid*; Art. 8(2)(e)(v), Elements of Crimes.

²⁶⁷ Art. 8(2)(e)(v), Elements of Crimes.

²⁶⁸ This RSF has long been accused of acting in this manner. For instance, former *Janjaweed* commander Ali Kushayb was charged by the ICC with, amongst other things, pillaging as a war crime.

²⁶⁹ Art. 28(a), ICC Statute. *See also*, the Public International Law & Policy Group and Orrick, Herrington & Sutcliffe, “[Prosecuting Leaders in Sudan Under Command Responsibility for Atrocity Crimes Committed by Their Subordinates](#)” July 2023.

TORTURE

As a matter of IHRL, the Sudanese government is required to take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under its jurisdiction.²⁷⁰ The UNCAT also requires that all State parties establish jurisdiction over acts of torture on the basis of the territoriality, active and passive personality as well as under the principle of universal jurisdiction.²⁷¹ For these purposes, torture is defined by four elements:

- a) Conduct inflicting severe pain or suffering, whether physical or mental;
- b) Element of intent (the perpetrator intended to inflict such pain);
- c) Specific purpose (e.g., gaining information, as a punishment, intimidation, coercion, among others – the list given in Art. 1 of the UNCAT is not exhaustive); and
- d) Involvement of a public official or other person acting in an official capacity, at least by acquiescence.²⁷²

Although this definition has similar elements to the definition adopted when torture is considered as a war crime or crime against humanity, there are several key differences. For instance, the Elements of Crimes do not require the involvement of a public official for either torture as a war crime or as a crime against humanity.²⁷³ Further, as considered above, the war crime of torture requires that the victim was *hors de combat*, a civilian, medical personnel or religious personnel taking no active part in the hostilities, and that the conduct took place in the context of and was associated with a NIAC.²⁷⁴ The crime against humanity of torture requires that the victim was in the custody or under the control of the perpetrator, that the conduct was committed as part of a widespread or systematic attack directed against a civilian population, and that the perpetrator knew that the conduct was part of or intended the conduct to be part of such an attack.²⁷⁵ None of these elements are required to demonstrate an instance of torture for the purposes required under IHRL.

As with torture as a war crime, there are numerous *prima facie* cases of torture under IHRL. Sudan as a State also has due diligence obligations under UNCAT to effectively prevent, investigate, prosecute, punish, and provide redress for acts of torture, including where the treatment was not inflicted by a public official or other person acting in an official capacity. Sudan cannot derogate from these obligations on the basis of an ongoing armed conflict, though the measures that it is required to take (which must be ‘necessary and reasonable’) are ultimately context-sensitive and will depend on the specific facts of each case.

270 Art. 2(1), UNCAT. UNCAT also imposes other obligations in respect of protecting against and preventing acts of torture and other ill-treatment (see General Comment No. 2, the Committee Against Torture, CAT/C/GC/2, 24 January 2008).

271 Wherever a perpetrator of torture is travelling or residing, the authorities of the respective State have an obligation to arrest them, to make a preliminary inquiry into the facts, and to decide whether to extradite the person to their country of origin, residence, or commission of the act of torture, or to prosecute the person before their own domestic criminal courts (Art. 5-9, UNCAT).

272 Art. 1(1), UNCAT.

273 Art. 7(1)(f) and 8(2)(c)(i)-4, Elements of Crimes. See also Rule 90 CIHL and Art. 7(2)(e) of the ICC Statute.

274 *Ibid.*

275 Art. 7(1)(f), Elements of Crimes.

ENFORCED DISAPPEARANCE

Both forces have reportedly committed acts of enforced disappearance, particularly of doctors, journalists, and activists. According to Art. 2 of the ICPPED, enforced disappearance for the purposes of IHRL means:

- i. An arrest, detention, abduction or any other form of deprivation of liberty;
- ii. By agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State;
- iii. Followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person placing such person outside of the protection of the law.

Given the current security and humanitarian situation, it can be very difficult to demonstrate whether an individual has been arrested, detained, or disappeared and, if so, by whom and on what basis. However, there are cases emerging where either the RSF or the SAF has been accused of unlawfully detaining an individual who is then reported missing, before later refusing to acknowledge having detained the individual or their whereabouts.²⁷⁶ These cases may qualify as enforced disappearances based on the above definition.

Enforced disappearance may also be incorporated as an aspect of another international crime. Practices such as enforced disappearance generally qualify as ‘causing severe pain and suffering’ and so may amount to torture or other ill-treatment, both for the disappeared person as well as their family and loved ones.²⁷⁷ Crucially, even the threat of enforced disappearance (or torture) – which can inflict severe mental harm on the individual and those close to them – may itself constitute an act of torture or ill-treatment. Where enforced disappearance is alleged as a crime against humanity, the definition is broadly similar to the IHRL definition, though:

- a) it also requires that the perpetrator intends to remove the individual from the protection of the law “for a prolonged period of time” (which is not a requirement under IHRL);²⁷⁸ and
- b) it can also be committed by a “political organization”.²⁷⁹

²⁷⁶ See for e.g., Mat Nashed, “Families, friends search for the missing as Sudan fighting rages”, 13 May 2023.

²⁷⁷ Committee against Torture, *Hilda Mariolyn Hernández Colmenarez and Francisco Arturo Guerrero Sánchez v Venezuela*, No. 456/2011, 15 May 2015.

²⁷⁸ Art. 7(1)(i) and 2(i), ICC Statute. Also, the conduct must have been committed as part of a widespread or systematic attack directed against a civilian population, and the perpetrator must have known that the conduct was part of or intended the conduct to be part of such an attack.

²⁷⁹ Art 7(2)(i), ICC Statute. Since the 2019 coup, the lines have blurred between the RSF acting in its capacity as a paramilitary force and as a political group. Until recently, Hemediti was deputy head of the Sovereign Council. Senior RSF leaders have also been closely involved in negotiations ostensibly for the establishment of a transitional government, and separately signed the December 2022 Framework Agreement.

CRIMES AGAINST HUMANITY

The prohibition of crimes against humanity is a peremptory norm of international law and therefore binds all States, including Sudan.²⁸⁰ Art. 7 of the ICC Statute – which broadly reflects the key elements of definitions adopted in other international texts and CIL²⁸¹ – defines crimes against humanity as any of the following acts when committed as part of a “widespread or systematic attack” directed against any civilian population, with knowledge of the attack:

- a) murder;
- b) extermination;
- c) enslavement;
- d) deportation or forcible transfer of population;
- e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f) torture;
- g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined [elsewhere in the ICC Statute], or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the [ICC];
- i) enforced disappearance of persons;
- j) the crime of apartheid;
- k) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Accounts emerging from Khartoum and Darfur allege that many of the above acts are being committed by the RSF and allied militias.²⁸² The key question is therefore whether they are being committed as part of a “wide-

280 Report of the International Law Commission, Seventy-first session (29 April-7 June and 8 July-9 August 2019), Supplement No. 10 (A/74/10), Chapter V, Conclusion 23, Commentary (7) and Annex at (c). See for e.g., International Criminal Tribunal for Rwanda, Trial Chamber II, Prosecutor v Clement Kayishema and Obed Ruzindana, Judgment, Case No. ICTR-95-1-T, 21 May 1999, para. 88.

281 There are differences between CIL and the ICC Statute with respect to the definition of crimes against humanity. For instance, at (h) below, the ICC Statute provides that persecution is only an offence when committed in connection with another offence within the ICC’s jurisdiction.

282 E.g., (a), (d), (e), (f), (g), (h), (i), and (k) above.

spread or systematic attack”. The most authoritative definition of these terms is that: “[w]idespread refers to the large-scale nature of the attack and the number of victims, while the phrase “systematic” refers to the organized nature of the acts of violence and the improbability of their random occurrence”.²⁸³ Based on current reports, particularly in Darfur, there are reasonable grounds to conclude that at least some of the patterns of violations reported constitute a widespread or systematic attack launched by the RSF and allied militias against the civilian population.²⁸⁴ For instance:

- a) the scale of attacks launched against civilians – the RSF and allied militias have attacked at least 26 cities, towns, and villages in Darfur. At least 1,500 people were killed in El-Geneina alone (reportedly, as many as 10,000 people may have been killed). The vast majority of those killed have been civilians;
- b) the location of attacks – which have mainly occurred in areas with large non-Arab population, including IDP camps;
- c) the similarity of attacks – many of the attacks on cities, towns, and villages in Darfur are similar in nature (targeting non-Arab civilians, razing homes and infrastructure);
- d) the nature of the attacks – the violence reported is entirely disproportionate to any conceivable military objective. Perpetrators have adopted scorched earth tactics or policies, destroying hospitals and other civilian structures, and assaulting, raping, and killing non-Arab civilians;
- e) historical context – the *Janjaweed* (now incorporated as the RSF) and other Arab militia groups have long been implicated in conduct allegedly constituting crimes against humanity, war crimes, and genocide in Darfur against the Masalit and other ethnic groups (including the Fur and Zaghawa).²⁸⁵ While the intensity of the violence has declined since its peak between March 2003 and April 2004, the situation in Darfur has remained fragile, with sporadic violence and insecurity still regularly reported in the years prior to the current conflict; and
- f) the language, incitement to kill and annihilate, and behaviour employed by perpetrators – many witness accounts describe perpetrators using ethnically targeted language, inciting others to commit violent acts against particular ethnic groups and stating that individuals will be killed if they belong to a particular ethnic group.²⁸⁶

Given the above context, it is also likely that – as required under ICL – many of the perpetrators in Darfur are aware that their acts fit into this pattern of seemingly widespread and systematic attacks directed against the non-Arab civilian population.²⁸⁷

283 ICTY, *Prosecutor v Kunarac, Kovac and Vukovic*, Judgment, Case No. IT-96-23/1-A, 12 June 2002, para. 94. *See also*, Art. 7, Introduction, Elements of Crimes. There is a complex and developing body of international jurisprudence that elaborates on these requirements (some of which is summarised [here](#)). While these terms have generally been interpreted consistently between international courts and tribunals, there are key differences. For instance, the ICC Statute requires that the attacks are committed “pursuant to or in furtherance of a State or organizational policy to commit such attack” (Art. 7(2)(a), ICC Statute) and that the State or organization must “actively promote or encourage such an attack against a civilian population” (Art. 7(3), Introduction, Elements of Crimes). This is not recognised by the ICTY and ICTR.

284 Though it is not necessary to prove that both requirements are met, as either are sufficient (widespread or systematic).

285 *See for e.g.*, ICC, *Prosecutor v al Bashir*, Second Warrant of Arrest for Omar Hassan Ahmad Al Bashir, Pre-Trial Chamber I, ICC-02/05-01/09-95, 12 July 2010.

286 *See for e.g.*, Amnesty International, “Death Came to Our Home: War Crimes and Civilian Suffering in Sudan”, 3 August 2023; Human Rights Watch, “Darfur: Rapid Support Forces, Allied Militias Rape Dozens”, 17 August 2023; Tamara Qiblawi, Allegra Goodwin, Nima Elbagir, and Celine Alkhalidi, “Shot at while they drowned. Executed in the desert. Those who collected the bodies recount ‘one of the worst days’ in Darfur’s genocide-scarred history”, 29 August 2023.

287 *See for e.g.*, ICTY, *Prosecutor v Tadic*, Appeal Judgment, Case No. IT-94-1-A, 15 July 1999, para. 248; Art. 7(2), Introduction, Elements of Crimes – which states that the perpetrator does not need to have knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization. It is also not required that the individual accused of a qualifying act intended that their act was directed against the targeted population (in other words, “the [mental element] of the offences relates to knowledge of the context, not motive”).

UN Special Representative for Sudan, Volker Perthes, acknowledged an “emerging pattern [in El Geneina] of targeted attacks against civilians on ethnic basis allegedly committed by Arab militias and some men in RSF uniform. If verified, these attacks could amount to crimes against humanity.”²⁸⁸ Similarly, UNITAMS has condemned “ethnically targeted violence against civilians in Darfur” by the RSF and allied militias.²⁸⁹

There is also evidence that crimes against humanity may have been committed elsewhere in Sudan, including in Khartoum. As described above, both forces appear to have committed qualifying acts directed against the civilian population, including torture, enforced disappearance, rape, and murder. The crucial question is again whether these offences have been committed as part of a “widespread or systematic attack”. Though further analysis is required on this, the patterns that have emerged in Khartoum since 15 April 2023 give the appearance of such an attack. For instance, both forces have been implicated in numerous instances of targeting civilian groups, particularly those associated with protecting human rights, delivering humanitarian aid, and politically opposing Sudan’s military authorities/paramilitary actors.

288 UN News, “Sudan: Attacks based on ethnicity may amount to war crimes”, 13 June 2023.

289 UNITAMS, “Statement by UNITAMS on Ceasefire During Eid Al-Adha”, 28 June 2023. In this statement, UNITAMS also observed “violence against civilians, rape and looting in the areas [the RSF] control, including in Khartoum”, as well as “attacks [by the SAF] in civilian populated areas, including aerial bombardments of residential areas in Khartoum.” “[T]argeted ethnic violence in Darfur” has also been condemned by envoys to the Troika (the UK, US, and Norway). The US Mission to the African Union has referenced “reports of widespread sexual violence and killings based on ethnicity in West Darfur by the Rapid Support Forces (RSF) and allied militias”, “[razings] which credible Sudanese voices claim is part of an emerging pattern of targeted ethnic violence against non-Arab populations”, and that these atrocities “are an ominous reminder of the horrific events that led the United States to determine in 2004 that genocide had been committed in Darfur.”

GENOCIDE

There are increasing allegations that the behaviour of the RSF and allied militias in Darfur could amount to genocide.²⁹⁰ According to the Genocide Convention,²⁹¹ genocide is “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- i. Killing members of the group;
- ii. Causing serious bodily or mental harm to members of the group;
- iii. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- iv. Imposing measures intended to prevent births within the group;
- v. Forcibly transferring children of the group to another group.”

As there is already significant evidence that perpetrators have committed several of the above acts, the key issue is whether they did so with “intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. While a full examination of genocide jurisprudence is beyond the scope of this paper, the following points should be noted at this stage:

- a) While there is very strong evidence that the RSF and allied militias have violently targeted and killed specific non-Arab groups, it must also be shown that they did so with the intention to “destroy” these groups (i.e., to cause the physical and biological destruction of the group, rather than conducting discriminatory killings or attempting to displace them from Darfur).²⁹²
- b) This intent must also be to destroy at least a “substantial part” of the group. This is both a numerical and qualitative assessment which can be made in relation to the overall size of the group or an emblematic part of it.²⁹³ Where the intent is to destroy a group in part, the perpetrators must view the part of the group they wish to destroy “as a distinct entity which must be eliminated as such.”²⁹⁴ Where (e.g., as in the case of the Masalit), a group also has a large presence elsewhere (in this case, eastern Chad), it is, in principle, sufficient for the destruction to target a geographically limited part of the larger group.²⁹⁵

290 See for e.g., SIHA Network, “The footprints of genocide can be traced in Al Geneina”, 16 June 2023; Dabanga, “More than 5,000 reportedly killed in El Geneina ‘genocide’”, 20 June 2023; Statement from the Darfur Women Action Group, 21 June 2023; Al Jazeera, “Ethnic violence in Sudan raises genocide alarm as war rages on”, 13 June 2023. Kenyan President William Ruto has also remarked that “there are already signs of genocide in Sudan”. Commentators also regularly reference acts of ‘ethnic cleansing’. While the underlying practices to which they refer could fall within the definition of genocide, the two concepts are not identical and ethnic cleansing has not been recognised as an independent crime under international law.

291 The Convention on the Prevention and Punishment of the Crime of Genocide (the ‘Genocide Convention’), Art. II. Sudan is a State Party to the Genocide Convention, which entered into force for Sudan on 11 January 2004. The prohibition of genocide is also a peremptory norm of international law and therefore binds all States, including Sudan; Report of the International Law Commission, Seventy-first session (29 April-7 June and 8 July-9 August 2019), Supplement No. 10 (A/74/10), Chapter V.

292 See for e.g., International Court of Justice, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Bosnia and Herzegovina v Serbia and Montenegro*, Judgment, 26 February 2007, para. 190; ICTY, *Prosecutor v Radislav Krstić*, Trial Judgment, Case No. IT-98-33-T, 2 August 2001, para. 580.

293 See for e.g., ICC, *Prosecutor v al Bashir*, Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, Pre-Trial Chamber I, ICC-02/05-01/09, 4 March 2009, para. 146.

294 ICTY, *Prosecutor v Radislav Krstić*, Trial Judgment, Case No. IT-98-33-T, 2 August 2001, para. 590.

295 *Ibid.*

- c) The different elements of genocide establish a high burden of proof that is very difficult to substantiate with adequate evidence, as demonstrated by the relative lack of successful genocide prosecutions.

Public evidence reviewed by REDRESS is indicative of conduct that could possibly amount to genocide. Alongside the factors referred to at para. 105 (particularly, the scale, location, nature and similarity of attacks launched against non-Arab groups and the language employed by perpetrators), it is also notable that the ICC previously charged al-Bashir with three counts of genocide, having found there are reasonable grounds to believe that, as part of the Government of Sudan's counter-insurgency campaign against rebel armed groups in Darfur, al-Bashir was criminally responsible as an indirect perpetrator or co-perpetrator for genocidal acts committed with the specific intent to destroy in part the Fur, Masalit and Zaghawa groups.²⁹⁶ While al-Bashir was not surrendered to the ICC's custody and the proceedings against him therefore remain in the pre-trial phase, there are clear similarities between the events considered by the ICC in his case and those reported in Darfur since 15 April 2023. Having been mobilised in Darfur by the Government of Sudan in 2003, the *Janjaweed* proved to be a core component of its counter-insurgency campaign, perpetrating many of the most violent attacks against civilians belonging largely to the Fur, Masalit, and Zaghawa groups. The key perpetrator of current atrocities in Darfur, the RSF: (i) was formally established from the *Janjaweed*; (ii) is led by Hemedti, who fought for (and became a leader of) the *Janjaweed* in Darfur during the peak of the violence; and (iii) is accused of targeting the same groups once targeted by the *Janjaweed* in conduct that the ICC considered could amount to genocide.

However, further evidence and analysis are required on this issue. A comprehensive assessment is needed of all the available evidence – including further evidence on the nature, volume, location, and other patterns of violence in Darfur, as well as the actions, words and orders of the alleged perpetrators – to demonstrate whether the required intent for genocide is met.

296 ICC, *Prosecutor v al Bashir, Second Warrant of Arrest for Omar Hassan Ahmad Al Bashir*, Pre-Trial Chamber I, ICC-02/05-01/09-95, 12 July 2010.

DOMESTIC ACCOUNTABILITY

As described above, there is strong evidence that members of both sides have committed international crimes. The international justice system has traditionally recognised that States have primary responsibility for investigating and prosecuting international crimes that occur within their territory.²⁹⁷ In principle, this approach should be more immediate, efficient, and effective than using regional or international courts/tribunals, and should promote greater involvement of affected communities, as well as strengthen the operation of (and public confidence in) national judicial systems. However, Sudan's judicial infrastructure and domestic laws pose serious hurdles to any meaningful prosecution of perpetrators even if there was a political commitment to accountability for international crimes.²⁹⁸

Domestic implementation of international crimes

Sudan's domestic law and institutions present major obstacles that must be overcome to successfully prosecute violations before national courts. They are therefore in need of substantial reforms. This issue is particularly pertinent with respect to domestic prosecution of international crimes, as both sides are accused of committing such offences during the current conflict. After the UN Security Council resolution of 31 March 2005 referred the Darfur situation to the ICC since 1 July 2002,²⁹⁹ the Government of Sudan amended existing legislation and enacted new legislation in 2007 and 2009 with a view to incorporating the international crimes of war crimes, crimes against humanity, and genocide.³⁰⁰ In particular:

- a) the Criminal Act 1991, as amended in 2009 (the 'CA 1991') – specifically Arts. 186 (crimes against humanity), 187 (genocide), (war crimes against persons), 189 (war crimes against property and other rights), 190 (war crimes against humanitarian operations), 191 (war crimes of prohibited fighting methods, and 192 (war crimes of using prohibited means and weapons); and
- b) the Armed Forces Act 2007 – specifically Arts. 153 (war crimes offences committed by combatant personnel against civilians during military operations), 154 (offences against persons enjoying special protection), 155 (attacks on civilians), and 162 (threatening and displacing the populace and offences against prisoners of war).

While this was an important step towards combatting impunity for the commission of international crimes, many gaps ultimately exist in this body of the legislation and subsequent amendments; some of which are considered in this report.³⁰¹

297 See for e.g., the principle of complementarity in the ICC.

298 See for e.g., African Union Peace and Security Council (PSC/AHG/2(CCVII)), Report of the African Union High-Level Panel on Darfur, October 2009, Ch. 3.

299 Fn 220.

300 See the Armed Forces Act 2007 ([English/Arabic](#)), the Criminal Act 1991 ([English/Arabic](#)), and the 2009 Amendment to the Criminal Act 1991 ([English/Arabic](#)).

301 For further analysis, see Mohamed Abdelsalam Babiker, "The Prosecution of International Crimes under Sudan's Criminal and Military Laws: Developments, Gaps and Limitations" in Lutz Oette (ed), *Criminal Law Reform and Transitional Justice: Human Rights Perspectives for Sudan* (Ashgate 2011), 161-181. If any meaningful justice is to be achieved domestically, wholesale reforms are required to the laws that govern Sudan's security actors, including substantive and procedural laws as well as immunity provisions.

War crimes

The new articles in the amended CA 1991 provide a domestic legal basis for the prosecution of various offences as war crimes. Some of these provisions appear functionally similar to the offences described above under CIL and the ICC Statute. For instance, Art. 188 addresses the intentional killing of civilians, torture, unlawful detention, hostage-taking, and rape; Art. 189 addresses pillage and large-scale destruction of property; and Art. 191 addresses intentional attacks on civilians, civilian objects (including hospitals and military buildings) and residential areas, as well as the use of disproportionate indiscriminate attacks and human shields.

However, the specific wording used in CA 1991 is, in various places, inconsistent with international standards.³⁰² Art. 188 recognises that the following acts of sexual violence may constitute war crimes:

- a) Using coercion in intercourse with a female or sodomy with a male or raping the victim if this is linked with insertion in whatsoever manner. Coercion is considered to have taken place in the event that any of the previous actions is committed against any person who is unable to express his/her consent;
- b) Forcing one person or more from a protected group to commit any action of a sexual nature by force or threatens with the use of force with the intent to obtain money or other benefits in return for those actions or for any other reason associated therewith; and
- c) Detaining one woman or more from a protected group coercively for pregnancy with the intent to influencing the racial composition of a group of population.³⁰³

The above definition of rape as a war crime is vague and fails to properly elaborate on the different forms of coercion/lack of consent as well as the acts of penetration which have been recognised in international jurisprudence.³⁰⁴ They also fail to reflect the diverse forms of sexual violence that may constitute an international crime. It is also unclear how these provisions may be applied in practice by the domestic legal apparatus. Sudan's ordinary law and practice on sexual violence are already fundamentally flawed, including the use of overly restrictive definitions, as well as significant disparities regarding the – often inordinate – evidential thresholds that apply.³⁰⁵ Survivors of sexual violence are also deterred from bringing a criminal complaint in the first place, as a woman who alleges that she has been raped may face prosecution for committing adultery or so-called immoral acts.³⁰⁶ A series of reforms were enacted in 2015 and 2020.³⁰⁷ However, a recent report by the UN High Commissioner for Human Rights still noted that “[i]ncidents of sexual and gender-based violence are underreported due to stigma, fear of reprisals and lack of trust in the justice system.”³⁰⁸ A major overhaul is necessary to facilitate future domestic prosecutions of sexual violence occurring during the conflict – whether under Sudan's implementation of international crimes, its ordinary sexual violence laws, or the lifting of barriers for access of survivors and victims to justice.

302 This section focuses on the CA 1991, though the provisions of the Armed Forces 2007 are also inadequate. On this, *see for e.g.*, Mohamed Abdelsalam Babiker, “The Prosecution of International Crimes under Sudan's Criminal and Military Laws: Developments, Gaps and Limitations” in Lutz Oette (ed), *Criminal Law Reform and Transitional Justice: Human Rights Perspectives for Sudan* (Ashgate 2011), 161-181.

303 Art. 188 CA 1991.

304 For further details, *see* Mohamed Abdelsalam Babiker, “The Prosecution of International Crimes under Sudan's Criminal and Military Laws: Developments, Gaps and Limitations” in Lutz Oette (ed), *Criminal Law Reform and Transitional Justice: Human Rights Perspectives for Sudan* (Ashgate 2011), 161-181.

305 *See for e.g.*, SIHA Network and REDRESS, “Criminalisation of Women in Sudan: A Need for Fundamental Reform”, November 2017; SIHA Network, “Trapped in between misogyny and dogma: Noura's case and the dilemma of Sudan's legal system”, 14 May 2018.

306 SIHA Network and REDRESS, “Criminalisation of Women in Sudan: A Need for Fundamental Reform”, November 2017

307 On the 2015 amendments, *see for e.g.*, African Centre for Justice and Peace Studies, “Sudan's new law on rape and sexual harassment: One step forward, two steps back?”, 8 March 2016. *See* REDRESS' [explanatory table](#) breaking down some of the changes by the Miscellaneous Amendments Act 2020.

308 *Situation of human rights in the Sudan, Report of the UN High Commissioner for Human Rights*, 12 May 2023, A/HRC/53/19.

In contrast to the approach set out in the ICC Statute, the CA 1991 does not limit the justiciability of war crimes to those committed ‘as part of a plan or policy or as part of a large-scale commission of such crimes’. Instead, the CA 1991 (and the Armed Forces Act 2007) haphazardly blends elements of other international crimes (e.g., genocide, crimes against humanity), and introduces novel criteria (e.g., that conduct is committed “knowingly”)³⁰⁹ not recognised as requirements under IHL. The CA 1991 also does not functionally distinguish between NIACs and international armed conflicts and fails to incorporate the full ambit of recognised war crimes. On the face of it, domestic prosecution of alleged war crimes in Sudan would be complex and unpredictable, requiring a wholesale analysis of this novel legal framework and the implications of disparities (intentional or not) between its application and the established rules of IHL.

Torture and enforced disappearance

The CA 1991 fails to adequately incorporate various serious human rights violations amounting to crimes, including torture and enforced disappearance. For instance, it does not define torture in a manner consistent with Art. 1 of the UNCAT³¹⁰ and does not criminalise enforced disappearance as a stand-alone offence.³¹¹

Crimes against humanity and genocide

Sudan’s implementation of crimes against humanity and genocide could also pose significant challenges from a domestic accountability perspective. For instance:

- a) while Art. 186 includes a large list of offences that may constitute crimes against humanity, the definition of rape as a crime against humanity fails to meet international standards (in the same way that rape as a war crime is deficient, on which see above); and
- b) the definition of genocide in Art. 187 of the CA 1991 is inconsistent with, and sets an even higher prosecutorial threshold than, the definitions set out in the 1948 Genocide Convention and the ICC Statute – making prosecution of the crime of genocide exceedingly difficult.³¹²

The CA 1991 also fails to recognise command/superior responsibility as a distinct mode of criminal liability.³¹³ As a senior officer may not necessarily take a specific action themselves, it may be difficult to prosecute them under this framework. In contrast, ICL recognises an express obligation on commanders and superiors to prevent the commission of crimes by their subordinates.³¹⁴ If this obligation is not complied with, the relevant commander/superior may be held criminally liable in their own capacity.³¹⁵ This equally applies to the war crimes analysis above.

309 Cf. Art. 8, Elements of Crimes, which only requires that the perpetrator is aware of the factual circumstances that establish the existence of an armed conflict.

310 On other torture issues in Sudan’s legal framework (e.g., inadequate procedural safeguards, lack of due process protections), see for e.g., REDRESS and CTI, “Anti-Torture Standards in Common Law Africa: Good Practices and Way Forward”, 2022; REDRESS, “Torture-tainted trials in Sudan”, September 2022.

311 Perpetrators of enforced disappearance could be charged under other provisions (e.g., Arts. 162 (kidnapping), 164 (unlawful confinement) and 165 unlawful detention), though none of these adequately address the concept (and gravity) of enforced disappearance.

312 For a more fulsome analysis of deficiencies in Sudan’s implementation of crimes against humanity and genocide, see Lutz Oette (ed), “Criminal Law Reform and Transitional Justice: Human Rights Perspectives for Sudan”, 2011, Chapter 7 (Mohamed Abdelsalam Babiker, The Prosecution of International Crimes under Sudan’s Criminal and Military Laws: Developments, Gaps and Limitations).

313 Specifically, it only recognises traditional modes of criminal liability, namely directly committing an offence, ordering, aiding and abetting the commission of an offence, and engaging in criminal conspiracy in relation to certain offences. In this respect, see Part II and III of the CA 1991. Relatedly, Arts. 22 and 39(7), Armed Forces Act 1999 further obstructs aspects of command/superior liability in Sudan’s domestic law.

314 See for e.g., Art. 27 ICC Statute; Art. 24(1) ICTY Statute; Art. 23(1) ICTR Statute.

315 *Ibid.*

Broader accountability and justice context

While this report identifies inadequacies in the design of specific criminal offences, further steps must also be taken to reform other areas of law, as well as to overcome the wider political and institutional hurdles that limit the feasibility of obtaining justice in Sudan. Existing immunities provisions – which make the prosecution of SAF and RSF officers for these offences virtually impossible – must be abolished.³¹⁶ Longer term, a sustained effort must be made to build political will for accountability, and to address factors such as the operational independence of the Sudanese judiciary, as well as the lack of capacity and resource within Sudan’s judicial system. Sudan must also devise and implement a genuine and effective transitional justice process. This process must be driven by consultation with, and participation from, key stakeholders including victims and survivors, as well as their families and communities.³¹⁷ In this respect, justice must be complementary to, and prioritised within, any peace process and democratic transition.³¹⁸

As of writing, both forces have taken steps, ostensibly to promote accountability for violations committed since the start of the conflict. The RSF established field courts to address “violations and misconduct” within the RSF.³¹⁹ Several individuals have reportedly already been tried by these courts.³²⁰ Al-Burhan subsequently announced the formation of a committee to document and investigate human rights violations and crimes committed by the RSF since 15 April 2023.³²¹ The committee soon issued a list of 46 suspected perpetrators, including Hemedti.³²² Sudan’s Public Prosecution then issued arrest warrants against Hemedti and other RSF leaders.³²³ While REDRESS is not aware of any substantive public details regarding the operation of these bodies, it is highly unlikely that either one will conduct proceedings impartially, transparently, or in accordance with international standards.

316 E.g., Art. 34 of the Armed Forces Act 2007 provides immunity from criminal prosecution for soldiers and officers who conduct any act “in good faith” in the course of their duties. Art. 42(2) of the Armed Forces Act 2007 prohibits the investigation or prosecution of any “officers of the Military Judicature” unless approved by the head of the army (the 2019 Constitutional Document designated the RSF as a regular military force). The 2019 Constitutional Document also purports to prohibit criminal proceedings from being instituted against any member of the Sovereign Council, Council of Ministers, Transitional Legislative Council, or governors of Sudan’s states without a waiver of immunity from the (yet to be formed) Legislative Council—or the (yet to be formed) Constitutional Court, in the absence of a Legislative Council. For further detail, see for e.g., REDRESS and the SOAS Centre for Human Rights Law, “Domestic Accountability Efforts in Sudan”, May 2021.

317 Survivors will have different views as to what constitutes justice, and which elements of transitional justice should be prioritised. On this issue in a UK context, see REDRESS, “Whose Justice? Reflections From UK-based Survivors of Torture”, July 2022.

318 See for e.g., REDRESS and the SOAS Centre for Human Rights Law, “Transitional Justice Processes in Sudan”, August 2020 – which remains highly relevant and imperative despite the changes in context since then.

319 Tweet from the RSF, 27 June 2023.

320 Sudan Tribune, “Hemetti admits violations by RSF elements, announces field courts”, 26 June 2023.

321 Sudan Tribune, “Sudan forms committee to probe war crimes by Rapid Support Forces”, 4 August 2023.

322 Sudan Tribune, 45 آخرين كمطلوبين للعدالة “حميدتي” لجنة جرائم الحرب تعلن – on the list of suspected perpetrators, 17 August 2023.

323 Tweet from Wli, 31 August 2023.

INTERNATIONAL ACCOUNTABILITY



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Proceedings against Ali Kushayb, who is charged with 31 counts of war crimes and crimes against humanity, committed in Darfur, opened at the ICC on 5 April 2022.

There is a clear role for international actors to play in supporting Sudan's journey to accountability. The current situation will be of particular interest to the ICC, which can exercise jurisdiction over crimes listed in the ICC Statute committed in the "situation in Darfur since 1 July 2002".³²⁴ The ICC, which, since June 2005, has been investigating alleged genocide, war crimes, and crimes against humanity committed in Darfur, previously issued arrest warrants in respect of five Sudanese individuals, including Omar al-Bashir. Only one charged person – former *Janjaweed* commander Ali Kushayb – is currently in ICC custody.³²⁵ Proceedings against Kushayb, who is charged with 31 counts of war crimes and crimes against humanity, opened at the ICC in April 2022. The Common Legal Representatives of Victims are currently calling witnesses, with the Defences scheduled to make opening statements and start presenting its case on 28 August 2023. Prior to the conflict, three of the charged persons – al-Bashir, Ahmed Harun, and Abdel Raheem Muhammed Hussein – were understood to be in Sudan's custody. Ahmed Harun escaped custody early in the current conflict, leaving Kober prison after being released by armed fighters.³²⁶ As of writing, Harun is reportedly travelling freely across parts of Sudan, apparently promoting the

³²⁴ As Sudan is not a State Party to the ICC Statute, the ICC's jurisdiction in Sudan is principally derived from a referral by the UN Security Council on 31 March 2005 (and fundamentally derived UN Charter obligations).

³²⁵ Kushayb voluntarily surrendered himself to ICC custody in the Central African Republic in June 2020, more than a decade after the ICC issued an arrest warrant on 27 April 2007.

³²⁶ Mohammed Tawfeeq and Helen Regan, "Former Sudanese minister Ahmed Haroun wanted on war crimes charges freed from Khartoum prison", 26 April 2023; Tweet from Wli, 25 April 2026.

continuation of the current conflict together with other Bashir-affiliated leaders.³²⁷ While a warrant was issued by the Public Prosecution in Kassala for Harun's arrest,³²⁸ this was subsequently struck off.³²⁹ According to Sudanese officials, al-Bashir was being treated at Alia Military Hospital in Omdurman at the start of the conflict.³³⁰ Alia Military Hospital was subsequently attacked on multiple occasions, reportedly by the RSF.³³¹ There is speculation that al-Bashir was moved to a secure location after a series of recent artillery strikes hit Alia Military Hospital,³³² though his whereabouts have not been independently verified.

It is unclear whether the ICC's jurisdiction in Sudan is sufficient to address offences committed elsewhere in the country. In the context of a situation referred to it, the ICC has previously considered that it may only investigate crimes committed after that time, "in so far as they are sufficiently linked to the situation of crisis which was ongoing at the time of the referral."³³³ When jurisdiction is at issue, the ICC may conduct a broad assessment of the language of the referral, as well as the nature, severity and patterns of the alleged offences, when and where they were apparently committed, and whether there is continuity between the principal actors/groups involved.³³⁴ Certainly, there are links between the "situation in Darfur" that was originally referred to the ICC and at least some of the alleged violations currently being reported. A number of the key actors in this conflict, including Hemedti and al-Burhan, are implicated in the prior atrocities of Darfur.³³⁵ There are also significant parallels between the patterns of violations emerging now, especially in Darfur but also elsewhere (including Khartoum) with those already under investigation by the ICC – particularly the command and control of military operations and military supplies, training, and weaponry, much of which emanated from the capital. The ICC Prosecutor has now announced that his office has commenced an investigation into alleged crimes being committed in Darfur during the current armed conflict.³³⁶ The key outstanding question is whether the Prosecutor considers that the ICC's jurisdiction is geographically confined to events in Darfur. At least one group has filed a motion to the ICC reportedly calling for actors from both the RSF and SAF to be charged with war crimes.³³⁷ The SAF also reportedly planned to submit a dossier of evidence on alleged crimes by the RSF to the ICC by the end of August 2023.³³⁸

Other international actors should take proactive steps to promote accountability in Sudan. An international independent commission of inquiry should be established to investigate all alleged violations of human rights and

327 Sudan Tribune, "Calls for arrest of former regime leaders after appearing on State tours", 20 July 2023; [Tweet from Emergency Lawyers](#), 21 July 2023.

328 Dabanga, "Arrest warrants issued against five former NCP leaders in eastern Sudan", 2 August 2023.

329 Dabanga, "Eastern Sudan prosecutors dismiss charges against 'Islamist hardliners'", 11 August 2023.

330 *Ibid*; Zeinab Mohamed Salih and Oliver Holmes, "Sudan's ex-leader Omar al-Bashir being held in military hospital, says army", 26 April 2023.

331 Mohammed Amin, "Sudan's RSF besieges hospital where Omar al-Bashir is being held", 3 July 2023; Hadeel Hashem, "Sudanese Former President's Residence Hit in Artillery Shelling on Alia Hospital", 17 July 2023.

332 Al-Bashir was reportedly unharmed.

333 ICC, *Prosecutor v. Callixte Mbarushimana*, Decision on the "Defence Challenge to the Jurisdiction of the Court", Pre-Trial Chamber I, ICC-01/04-01/10, 26 October 2011, para. 16. For a summary of the ICC's jurisprudence on this topic, see for e.g., Rod Rastan, "The Jurisdictional Scope of Situations Before the International Criminal Court", *Criminal Law Forum* (2012) 23:1–34.

334 *Ibid*.

335 See for e.g., Jérôme Tubiana, "The Man Who Terrorized Darfur is Leading Sudan's Supposed Transition", 14 May 2019; Al Jazeera, "Who is al-Burhan, Sudan's military de facto head of state?", 16 April 2023.

336 Office of the Prosecutor of the ICC, *Thirty-Seventh Report of the Prosecutor of the International Criminal Court to the United Nations Security Council Pursuant to Resolution 1593 (2005)*, 13 July 2003. The Office of the Prosecutor has also launched a public appeal for evidence on crimes committed in relation to this new investigation or its long-standing Darfur investigation into events since 1 July 2002.

337 Sudan Tribune, "Complaint to the International Criminal Court Against Abuses by the army and RSF", 2 May 2023.

338 Africa Intelligence, "Sudan civil war spreads to judicial arena", 18 August 2023.

IHL since the start of the conflict.³³⁹ National war crimes units in third States should – to the extent that their national frameworks allow for it – monitor the movements of suspected perpetrators of serious human rights violations and international crimes and, under universal jurisdiction, prepare to arrest and prosecute any such perpetrators that enter their territory. In this respect, States should proactively open structural investigations to collect evidence in relation to the crimes committed during the current armed conflict. States should also impose targeted sanctions on all Sudanese leaders responsible for serious human rights violations, as well as the companies and other affiliated entities who facilitate them.³⁴⁰ In many ways, the current conflict is the cost of certain States’ historic unwillingness to prioritise accountability and justice in Sudan, which has come at the expense of progress toward democratic transition. This cost is, once more, being paid by the people of Sudan. A change in strategy is urgently required.

339 There are doubts as to whether there is sufficient political appetite within the UN Human Rights Council to pass such a resolution. On 11 May 2023, the UN Human Rights Council voted to extend the mandate of the designed Expert of the High Commissioner on human rights in the Sudan to include detailed monitoring, documentation, and reporting of allegations of human rights violations and abuses since 25 October 2021. This resolution – which was reportedly watered down several times prior to the vote and did not go as far as to propose establishing an independent investigative mechanism – narrowly passed, with 18 votes in favour, and 15 against. No African country voted in favour of the notion. Reports suggested there were strong counter-lobbying efforts (particularly from Saudi Arabia, apparently on the basis that the motion could jeopardise negotiations in Jeddah); Emma Farge and Gabrielle Tétrault-Farber, “Western motion to monitor Sudan abuses ekes past at UN rights body”, 11 May 2023. At present, it is expected that Russia and China would veto any motion at the UN Security Council calling for an international independent commission of inquiry on Sudan. The African Union may be best placed to establish such a body (through the Peace and Security Council or the African Commission on Human and Peoples’ Rights).

340 Particularly where the perpetrator is unlikely to enter a State that is likely to arrest and prosecute them under universal jurisdiction.

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