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Technical assistance and capacity-building

Report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan

Summary

In its resolution 45/25, the Human Rights Council decided to end the mandate of the Independent Expert on the situation of human rights in the Sudan and requested the United Nations High Commissioner for Human Rights to prepare a written report, assessing the progress made and the remaining challenges, including the work of the United Nations country office and its fields presences, and to present it to the Human Rights Council at its forty-eighth session. The present report, which covers the period from October 2020 to 30 June 2021, is based on information received through the direct engagement of the Office of the United Nations High Commissioner for Human Rights in the Sudan with the Government of the Sudan and other national stakeholders, including civil society organizations working in the Sudan.



I. Introduction

1. The Office of the United Nations High Commissioner for Human Rights (OHCHR) opened its country office in the Sudan in December 2019 in accordance with Human Rights Council resolution 42/35 (2019) and the host country agreement that was signed with the Government of the Sudan on 25 September 2019. On 4 June 2020, the Security Council, by its resolution 2524 (2020), decided to establish the United Nations Integrated Transition Assistance Mission in Sudan (UNITAMS) with a human rights mandate. As of 1 January 2021, in line with the 2011 policy on human rights in United Nations peace operations and political missions,¹ the OHCHR country office in the Sudan has been integrated with the UNITAMS Office of Support to Civilian Protection, referred to in the present report as the United Nations Joint Human Rights Office in the Sudan.

2. Currently, the Joint Office has 21 staff,² including 3 staff in three field offices (El Fasher, Kadugli and El Damazin), and recruitment is ongoing to fully equip the Joint Office to enable it to respond to the human rights challenges in the Sudan. Extrabudgetary resources fund the total financial needs of the United Nations country office for 2021, complemented by regular budget allocations for human rights posts funded by UNITAMS. The Joint Office is nevertheless seeking sustainable multi-year contributions for 2022–2023.

3. The present report covers the period from October 2020 to 30 June 2021. A draft of the report was shared with the Government of the Sudan to provide it with an opportunity to comment on the observations and findings of OHCHR.

II. Methodology and engagement

4. The report is based on the information and observations gathered by the Joint Office in its direct engagement with Government officials and representatives of civil society, the United Nations country team and the diplomatic community in the Sudan. During the reporting period, the Joint Office conducted 26 field missions, 3 prison visits and over 20 capacity-building activities in coordination with State institutions and civil society. It also followed up on individual cases of alleged human rights violations and abuses. The report presents an analysis of the human rights situation in the Sudan and outlines recent developments and continuing human rights challenges in the country. It also assesses the implementation of the recommendations contained in the previous reports of the Independent Expert on the situation of human rights in the Sudan and makes recommendations to the Government and other stakeholders towards improvement of the human rights situation in the country.

5. OHCHR underlines its constructive and direct engagement with the Government of the Sudan and welcomes the numerous positive initiatives taken by the Government during the reporting period. The Joint Office engaged in a number of activities aimed at strengthening the Government's capacity on human rights, including technical advice and capacity-building. At the request of the Prime Minister of the Sudan, the United Nations High Commissioner for Human Rights deployed a Senior Human Rights Adviser to the office of the Prime Minister from October 2020 to April 2021 to support ratification/accession processes and the strengthening of government capacity to engage with international human rights mechanisms. In addition, the High Commissioner had regular interactions with officials of the Government of the Sudan on areas of mutual cooperation and on key human rights developments in the country, including on protection concerns in Darfur. On 12 May 2021, OHCHR submitted to the Government of the Sudan, through the Permanent Mission

¹ The policy on human rights in United Nations peace operations and political missions (2011) is a joint policy between the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Department of Peacekeeping Operations, the Department of Political Affairs and the Department of Field Support, which governs OHCHR integration into United Nations peace operations.

² This includes 15 staff of the OHCHR country office and 6 staff of the Office of Support to Civilian Protection of the United Nations Integrated Transition Mission in Sudan (UNITAMS), which together constitute the Joint Office.

of the Sudan to the United Nations Office at Geneva, a call for contributions to a questionnaire on human rights developments and remaining challenges in the country.³

III. Main human rights trends and patterns

A. Protection of civilians

6. The volatile situation and tensions throughout Darfur and in South Kordofan state remain a source of concern. The root causes of the violence, which are linked to competition over access to water resources and pastoral land, have been exacerbated by the proliferation of weapons. Furthermore, the competition for limited resources has been compounded by decades of political manipulation and interference in local tribal affairs. This has stoked tensions and exposed civilians to a significant risk of attacks, killings and sexual violence. In addition, the protracted conflict in the two areas has destabilized social and state institutions; local authorities in those areas lack the capacity and resources to fully engage in the protection of civilians. The consequences have been dire, exacerbated by the termination of the UNAMID mandate on 31 December 2020, which deprived civilians of the physical protection of peacekeepers, led to continued delays in the operationalization of dedicated national joint security forces to civilian protection and added to prevailing impunity for human rights violations.

7. The Joint Office continues to document violence perpetrated by non-state actors on civilians. On 15 January 2021, in West Darfur, confrontations between the Masalit and Arab tribes in El Geneina and the Krinding camps for internally displaced persons resulted in 162 deaths, 300 injured and the displacement of over 100,000 civilians. On 18 January 2021, in South Darfur, another clash between the Fallata and Rezeigat tribes in Tawilla village resulted in 72 deaths, 73 injured and over 20,000 civilians displaced. From 3 to 7 April 2021, a confrontation between Masalit and Arab tribes in El Geneina led to the killing of 144 people, with 233 injured. On 5 June, 35 people were killed and dozens were injured during tribal clashes between the Taisha and Fallata tribes in Mandwa village in South Darfur. Overall, it is estimated that over 200,000 civilians have been displaced in the violence during the reporting period. The clear identification of perpetrators remains a challenge. Some reports suggest the possible involvement of armed elements in El Geneina town in support of two ethnic groups to the confrontations in January 2021 in West Darfur.

8. In the Jebel Marra area of Darfur, interfactional clashes between rival rebel commanders have caused displacements and disrupted civilian lives and livelihoods, including restricted access for humanitarian actors. The failure by security forces to act pre-emptively to deter violence, provide physical protection or separate the rival groups may indicate complicity or acquiescence to the violence.

9. In South Kordofan state, the recurrence of violent incidents has heightened the vulnerability of the population and exposed serious protection gaps and challenges. In April 2021, dozens of civilians were killed and many more were reportedly injured during clashes between rival tribal communities in the El Hamid district of Gedir. The violence lasted several days and revealed a pattern of volatility, impunity and vulnerability across several areas in South Kordofan. In January 2021, hundreds of civilians participated in a demonstration in Kadugli to protest the deteriorating security situation, including attacks against civilians by state security forces. While the Governor of the state renewed his pledge to tackle security concerns, there has been limited improvement. In Eastern Sudan, the continued arrival of refugees from the Tigray region of Ethiopia and ongoing border disputes between the Sudan and Ethiopia have particular implications for humanitarian protection.

10. In regard to the six reported grave violations against children,⁴ a total of 55 cases were reported against 54 children (40 boys; 13 girls; 1 sex unknown). Of that total, 52 cases of serious violations were verified involving State and non-state actors. The killing and maiming

³ OHCHR has not received a response to its call for contributions as at the date of writing of the present report.

⁴ See <https://childrenandarmedconflict.un.org/six-grave-violations>.

of children continued to be the most prevalent violation, with 53 cases reported, mostly in Darfur. Additionally, in the context of intercommunal violence, on 16 January 2021, in the Krinding camps for internally displaced persons located in El Geneina, 15 children were killed, (12 boys, 2 girls and 1 sex unknown) and 13 children were maimed (7 boys and 6 girls), most of them from the Masalit tribe. Three girls were subjected to rape and attempted rape in West Darfur and Central Darfur in late 2020 and January 2021. The perpetrators were reportedly never held accountable.

11. The commitments of the Government of the Sudan to protecting civilians are enshrined in the ambitious national plan for the protection of civilians, which was presented to the Security Council in May 2020 following the decision on the drawdown of UNAMID. The Juba Peace Agreement also includes ambitious commitments to the protection of civilians. The most important instrument for physical protection of civilians is the 20,000-strong Joint Protection Force, composed of both government security forces and the forces of the Darfuri armed movements that signed the Juba Peace Agreement. The Joint Protection Force is mandated to undertake the constitutional, moral and political responsibility of the Government in protecting civilians.

12. The Government has reported making significant progress on aspects of the national plan for the protection of civilians, including: the recruitment of an additional police cadre in regions affected by intercommunal conflict; the establishment of committees to investigate human rights violations and violations of international humanitarian law; and the holding of workshops on international humanitarian law, the protection of civilians and early warning systems. Following the violent events of 15 January 2021 in West Darfur, the office of the Prime Minister issued a statement on its intention to send a high-level delegation, led by the Attorney-General, “to take the necessary measures” to stabilize the situation in the region. On 4 February 2021, a high-level delegation headed by Mohamed al-Faki, a member of the Sovereign Council, was dispatched to El Geneina to mediate between the two conflicting communities, in which the Arab tribes made demands for the removal of the state Governor (a Masalit) and the closure of the Krinding camp for internally displaced persons and/or its removal from El Geneina. They also demanded that the provision of humanitarian assistance to camps for internally displaced persons be stopped as they, the Arab tribes, are not receiving such assistance. On 30 January, about two weeks after the beginning of the clashes, followed by a sit-in by Arab tribes, the Rapid Support Forces, dubbed “Peace Shield Forces”, were deployed. The security forces were unable to disperse the protesters, who blocked supply of goods into El Geneina town for two weeks. During an incident in April 2021, a high-level delegation, headed by Abdel Fattah al-Burhan, the Chair of the Sovereign Council, visited El Geneina to de-escalate tensions. The visit of the delegation was followed by the announcement of the deployment of the first 8,000-strong Joint Protection Force of the 20,000 members of the Joint Protection Force after three months of joint training. There is still no clarity, however, about the command-and-control structure of the Force, vetting or screening arrangements nor on the content and delivery mechanism for training on the protection of civilians. While the Government also announced that the incident would be investigated by the Attorney-General, to date no one has been held accountable for the violent events.

13. Delays in the implementation of the national plan for the protection of civilians continue to create a protection gap in Darfur. The lack of timely action by the Government forces to deter or to stop the last three horrific violent incidents in El Geneina and the weak accountability by State authorities in relation to all violations associated with intercommunal armed conflict raise serious concerns regarding the lack of adequate protection of human rights. If this situation remains unaddressed, it could undermine public confidence in the implementation of the Juba Peace Agreement and disrupt the building blocks of the country’s transition agenda.

B. Legal reforms

14. The transitional legislative council has not yet been established as the parties to the Juba Peace Agreement have not yet reached a common conclusion on its composition.

Therefore, since August 2019, the legislative mandate has been held by the Joint Council.⁵ This institutional gap limits public participation in decision-making processes, particularly the legal reform process. It has been deepened by delays in establishing the legal reform commission, an independent constitutional commission that is expected to carry out a comprehensive review of the domestic legislation to bring it into line with the Constitutional Document and international human rights standards.

15. On 23 February 2021, the Anti-Trafficking Act (2014) was amended to increase punishment for human trafficking, which includes the death penalty. Additionally, amendments to the Criminal Code in July 2020 broadened the application of the death penalty to include people over the age of 70 in relation to *hudud* offences, retribution, crimes committed against the State and crimes related to public funds. OHCHR encourages the adherence to the principle of proportionality between the penalty and the gravity of the offence leading to serious human rights violations, and recalls that, pursuant to article 6 (2) of the International Covenant on Civil and Political Rights, in countries that have not abolished the death penalty it may only be imposed for the most serious crimes.⁶

16. OHCHR takes note of the progress made in the establishment of the 12 thematic independent commissions enshrined in the Constitutional Document aimed at implementing key thematic priorities for the transition. On 24 April 2021, the Joint Council adopted three key laws, establishing the Transitional Justice Commission, the Peace Commission and the Anti-Corruption and Public Recovery Funds Commission.

17. OHCHR urges the Government to consider the concerns raised by many national stakeholders about the draft security law that provides for the creation of a new security agency, to be called the “Internal Security Agency”. Under the terms of the law, the head of the agency would be mandated to order the arrest and detention of people suspected of criminal offences or security-related offences without prior authorization by the Attorney General or the Judiciary.⁷

18. The Joint Office continues to provide technical advice and capacity-building to the Ministry of Justice and civil society organizations to carry out an inclusive and participatory drafting process on a number of laws that facilitate accountability, such as the law establishing the Transitional Justice Commission, and a reforming of the prison law.

C. Human rights instruments and mechanisms

19. On 20 January 2021, the Government of the Sudan, with the support of the Joint Office, established its national mechanism for reporting and follow-up, which is mandated to ensure engagement with regional and international human rights mechanisms and also to provide civil society with the opportunity to participate in such engagement. On 9 and 10 March 2021, the Joint Office organized a training module on the universal periodic review for members of the mechanism. The Joint Office also organized similar training for 32 civil society organizations from 10 to 12 November 2020.

20. On 23 February 2021, the Joint Council approved accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance. The decision on the accession includes reservations against optional arbitration mechanisms for disputes between parties article 30 (1) of Convention against Torture and article 42 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance. The formal procedure of accession to the two Conventions has not been finalized.

21. On 27 April 2021, the Council of Ministers endorsed a recommendation, pending the approval of the Joint Council, to accede to the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and

⁵ The Joint Council refers to the joint meeting of the Sovereign Council and the Council of Ministers, acting as alternative legislative council until the formation of the transitional legislative council.

⁶ Human Rights Committee, general comment No. 36 (2018) on the right to life, paras. 35–36.

⁷ The Joint Office has obtained a copy of the draft law.

Peoples' Rights on the Rights of Women in Africa. This endorsement included reservations to articles 2 (policy measures), 16 (family and marriage life) and 29 (1) (arbitration of dispute) of the Convention on the Elimination on All Forms of Discrimination against Women. The Working Group on discrimination against women and girls of the Human Rights Council, in its letter to the Government of the Sudan dated 30 April 2021, urged the Government not to make reservations that may nullify the purpose of the Convention.⁸

22. The Constitutional Document provides for the formation of a new National Human Rights Commission, based on the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and the draft law on the new Commission is in development. With the support of the Joint Office and the United Nations Development Programme (UNDP), the Ministry of Justice held public consultations on the first draft of the law in Khartoum on 28 February 2021. With the participation of the Global Alliance of National Human Rights Institutions, the Joint Office also facilitated an interactive dialogue with civil society on the draft law on 15 March 2021 and organized an online interactive session on 8 April 2021 on compliance of the appointment process with the Paris Principles, focusing on the ministerial drafting committee. On 11 March 2021, the Dismantling Committee responsible for the dismantlement of the former regime⁹ set up a steering committee for the National Human Rights Commission to fill the protection gaps created by its decision, in August 2020, to dismiss the current board of the Commission until the appointment of a new board.

D. Civic space

23. During the reporting period, the Government has made some legislative and institutional changes that have had a positive impact on the civic space. On 20 December 2020, it established the Advisory Committee for Media Reform, which is mandated to provide recommendations for reforming the country's legal, policy and institutional media framework to comply with relevant international human rights standards. The Joint Office continues to engage with the Advisory Committee to provide technical advice.

24. Nonetheless, increasingly restrictive practices are being used by the authorities to curtail the ability of civil society to exercise the rights to freedom of expression, association, peaceful assembly and participation. On 21 January 2021, the outgoing Minister of Labour and Social Development endorsed new regulations that impose stringent restrictions on civil society.¹⁰ Those regulations were suspended by her successor, who has temporarily reactivated the 2013 regulations.¹¹ It has been reported that the Minister of Finance and Economic Planning revoked financial exemptions granted to some civil society organizations on 15 February 2021. The right to freedom of association is severely curtailed by such measures, especially if access to resources is restricted.

25. To illustrate practical impediments faced by civil society, it has been reported that civil society organizations in Blue Nile state have been intimidated and obstructed by security forces and asked to provide "authorization" instead of a "notification" to travel within the state. The Joint Office also received reports that the Dismantling Committee continues to dissolve civil society organizations perceived to be associated with the former regime. In May 2021, the Dismantling Committee dissolved 64 civil society organizations in North Darfur and 7 in Khartoum.

26. On 13 June 2021, the Ministerial Cabinet passed a revised Trade Unions Law, although it has yet to be adopted by the Joint Council. The Joint Office and the International

⁸ OL SDN 3/2021, available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26175>.

⁹ Dismantling Committee for the dismantling of the 30 June 1989 regime and public funds recovery.

¹⁰ Examples of restrictions on civil society organizations include conferring the Registrar with the power to delay the granting of certificates of registration; prior approval from the Registrar for a civil society organization to host more than two organizations on its premises; and the power of the Registrar to suspend a civil society organization indefinitely.

¹¹ The 2013 regulations are a set of regulations governing civil society organizations under the Voluntary and Humanitarian Works Act of 2006.

Labour Organization (ILO) jointly shared comments on the first draft of the law and subsequent comments with the Ministry of Labour in early 2021. While the revised law is a significant improvement over earlier drafts, with stronger protection for the right to association and the removal of criminal punishment for violating its provisions, it continues to restrict the right to strike by requiring mandatory notification of the employer after exhausting mediation and reconciliation remedies. Furthermore, the law does not prescribe gender parity on the governing bodies of trade unions.

27. There are serious concerns over the violent repression of protests across various states, including through the use of lethal force. On 15 October 2020, State security personnel fired at peaceful protesters in Kassala in eastern Sudan, reportedly leaving seven men dead and dozens injured. On 11 May 2021, the Sudanese Armed Forces fired tear gas and live ammunition at peaceful protesters in Khartoum who had gathered to mark the second anniversary of the events of 3 June 2019. Two protesters were killed and 37 people were severely injured. It was reported that seven army personnel who had been held in military prison were sent to the office of the Prosecution in Khartoum North. This marks the first time in the last 30 years that the army has cooperated with civilian authorities to prosecute its personnel for killing civilians. On 25 May 2021, the body of a member of one of the resistance committees was found in the morgue of Al Tamayuz hospital in Khartoum, which, according to the resistance committee of Aljiraif Shariq, showed signs of torture. Reportedly, the 25-year-old man, was last seen on 3 April 2021 when he, along with members of other resistance committees, took part in a gathering organized in front of the Army General Command in Khartoum.

E. Harassment of journalists, human rights defenders and artists

28. Journalists and human rights defenders continue to be targeted by security forces in the Sudan despite the bold steps taken by the Government of the Sudan to implement reform in this regard. On 30 November 2020, a woman human rights defender¹² and media practitioner was interrogated by the police for posting a statement on her Facebook account. She was later charged by the Cybercrime Prosecutor for publishing false news in violation of articles 24¹³ and 25¹⁴ of the Cybercrimes Act of 2020 and risks prosecution for exercising her right to freedom of expression. In December 2020, an active male member of one of the resistance committees in Khartoum was found dead. His body reportedly showed signs of ill-treatment that could amount to torture. The authorities confirmed that his death was a result of an interrogation at one of the Rapid Support Forces detention centres. On 31 March 2021, a woman human rights defender was arrested after she live-streamed a video on social media criticizing security forces for discriminating against women at gas stations. A criminal court sentenced her to a six-month suspended prison sentence and a fine for violating article 143 of the Criminal Act of 1991 related to the use of criminal force.

29. Artists are also subjected to censoring and prosecution. In March 2021, eight artists were arrested and later released by the General Administration of Central Investigations on charges, falsely reported by a media outlet, of producing a porn film. In the same month, a poet appeared before the Press and Publications Prosecutor in Khartoum following a complaint lodged against him by the Sovereign Council regarding a poem he read out on television. He was charged under article 159 of the Criminal Act of 1991 related to defamation offences. Artists, especially young women, reported to the Joint Office that they have experienced online smear campaigns aimed at discrediting them.

F. Women's human rights

30. The Government made concrete efforts to combat discrimination and violence against women. It undertook important legal reforms and made progress in adopting a national strategy to end child marriage. Additionally, the Government took concrete steps to accede

¹² The name is available (with consent) from the Joint Office.

¹³ Related to disseminating false news.

¹⁴ Related to libel.

to the Convention on the Elimination of All Forms of Discrimination against Women. However, a gap between what is enshrined in the Constitutional Document and reality became evident during the reporting period. Renewed incitement of sexual and gender-based violence may reverse the gains the Sudan has made since the beginning of its transitional period in promoting women's rights.

31. A draft law on combating violence against women is under preparation by the Unit to Combat Violence against Women of the Ministry of Social Development. The Unit has undertaken a series of consultations with relevant stakeholders in the finalization of the draft. Furthermore, in October 2020, the Ministry of Justice established a committee to prepare a draft Muslim personal status law. The Joint Office is engaging in these key legal reform processes, providing a platform for civil society organizations to determine their roles and advocacy strategy. In this regard, on 4 March 2021, the Joint Office organized a workshop for civil society to discuss the 1991 Muslim Personal Status Law. The workshop was attended by members of the committee established to prepare the draft of the new law.

32. Renewed incitement of violence against women and girls caused fear and resulted in actual attacks, especially after March 2021, when the Director of the Khartoum State Police called for the reinstatement of the Public Order Law.¹⁵ The statement of the Director prompted social media posts inciting violence against women, including flogging and chemical burning to disfigure their faces. The Ministry of Interior subsequently removed the Director from his position. Nevertheless, verbal and physical attacks against women on the street were reported in Khartoum. On 8 April 2021, a large number of women in Khartoum stormed the streets to protest violence and discrimination against women. They marched to the Ministry of Justice, the Ministry of Interior and the office of the Attorney General. During the march, the women faced attacks by a group of men; one man ploughed his car into the group of protesting women while another reportedly threatened to rape them. These incidents were reported to the police and the perpetrators were arrested and prosecuted. However, OHCHR is still concerned about reports of retaliatory actions by the attackers against the women who reported to the police.

33. Sexual and gender-based violence against women and girls continues to be reported in other parts of the country. The circulation on social media of a video recording of a gang rape of a 20-year-old woman by a group of men in late April 2021 in the vicinity of Er Roseiries in Blue Nile state caused widespread fear among women. In addition, the victim suffered trauma and stigma because of delayed medical and psychological treatment and the public airing of the video. As of 25 May 2021, two suspects in the gang rape were arrested and efforts by the local authorities to apprehend the other suspects were under way.

34. Soon after the Council of Ministers approved a recommendation to accede to the Convention on the Elimination of All Forms of Discrimination against Women on 27 April 2021, anti-Convention discourse began to spread on social media. On 9 May 2021, the Islamic Fiqh Council of the Sudan stated that "it is impermissible to sign or accede the Convention". OHCHR is concerned that a series of statements and events, starting with the statement by the Director of the Khartoum State Police, foment perceptions that incite discrimination and violence against women and girls and undermine the guarantees stipulated in the Constitutional Document. The Joint Office, together with the United Nations country team, is planning to provide support to the Government in raising awareness of and obtaining public support for accession to the Convention on the Elimination of All Forms of Discrimination against Women and the removal of reservations.

G. Economic, social and cultural rights

35. The economic crisis in the Sudan continues to deepen, including: increased poverty; rising inflation, reaching beyond 300 per cent;¹⁶ frequent shortages of essential commodities such as fuel, electricity and medicines; and acute power outages. The Government of the Sudan took several measures to address the situation, including liberalizing the exchange

¹⁵ The Public Order Law provided punishments that violated women's rights. See A/HRC/45/53.

¹⁶ Central Bureau of Statistics.

rate, removing fuel subsidies and increasing electrical tariffs, which are expected to create fiscal space for more social spending. The removal of the Sudan by the United States Department of State from the list of State Sponsors of Terrorism in December 2020 was a positive development, which was followed by the decision of the International Monetary Fund (IMF) and the World Bank to consider the eligibility of the Sudan for debt relief under the Heavily Indebted Poor Countries Initiative.¹⁷ With the country's external debt estimated at \$49.8 billion at the end of 2019,¹⁸ the decision of IMF and the World Bank is crucial to help the Sudan come out of decades of economic isolation and reintegrate into the international financial system. Both IMF and the World Bank require that the Sudan, inter alia: develop a poverty reduction strategy; establish a satisfactory six-month track record of performance under the staff monitored programme; and clear its arrears with the International Development Association. While these developments are positive, OHCHR notes that the economic choices made by the Sudan, whether acting alone or with the international financial institutions, must comply with its international human rights obligations at all times, including during economic crises.

36. The guiding principles on human rights impact assessments of economic reforms, developed by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights,¹⁹ require States and creditors to carry out human rights impact assessments of economic reform policies developed in response to acute economic and financial crises. No such assessment has been carried out by the Sudan to date. Most importantly, effective, timely and meaningful participation of all individuals and groups, including marginalized groups and those at risk of vulnerability from economic reforms, remains weak. Although the National Economic Conference held in September 2020 was a commendable effort to bridge the gap, the Joint Office was informed by civil society organizations that they had been left out, with no adequate and timely channels for participation at subsequent stages. On 20 October 2020, the Joint Office, as part of the Hernan Santa Cruz Dialogues, held a high-level dialogue on strengthening social protection in the Sudan, including economic, social and cultural rights, which brought together senior government officials, civil society actors and representatives of United Nations agencies and development partners to discuss the obligations of the Sudan under international human rights law in the context of ongoing economic reforms.

37. The lack of progress on the restitution of housing, land and property of internally displaced persons continues to pose a threat to the fragile peace process in the Sudan. The Juba Peace Agreement incorporates provisions that aim to identify the root causes of the conflict, particularly in the context of Darfur (clause 22.1.1), and to investigate violations of economic, social and cultural rights (clause 22.1.2). However, no tangible progress has been made in the implementation of the Juba Peace Agreement. Instead, the lack of access to water and other resources, including land, particularly in Darfur and other regions, remains a potent driver of conflict. Only about a third of the Sudanese population has access to basic water and sanitation.²⁰ In March 2021, the Joint Office organized a round-table discussion on land and security of tenure in Al-Fasher, in which participants underlined the need to form an inclusive Darfur land and *hawakeer* commission and Darfur reconstruction and development commission envisaged in the Juba Peace Agreement.

¹⁷ In 1996, the World Bank and the International Monetary Fund (IMF) launched the Heavily Indebted Poor Countries Initiative as a framework for comprehensive debt relief to eligible countries: see www.imf.org/en/News/Articles/2021/03/26/pr2187-sudan-imf-and-wb-consider-sudan-eligible-for-assistance-under-enhanced-hipc-initiative.

¹⁸ IMF and the World Bank: see www.imf.org/en/News/Articles/2021/03/26/pr2187-sudan-imf-and-wb-consider-sudan-eligible-for-assistance-under-enhanced-hipc-initiative.

¹⁹ The guiding principles were presented at the fortieth session of the Human Rights Council, in 2019 (A/HRC/40/57).

²⁰ United Nations, Coronavirus disease (COVID-19) pandemic: Socioeconomic Impact Assessment for Sudan, April 2020: see www.greengrowthknowledge.org/sites/default/files/downloads/resource/Sudan%20COVID-19%20socio-economic%20impact%20analysis%20-%202026%20April%202020.pdf.

38. The Government has launched a family support programme to assist poor and vulnerable families in coping with the negative impact of the pandemic. However, the Joint Office has observed that the programme suffers from a lack of funding and credible data on vulnerability as well as an inadequate legal and policy framework on social security protection.

39. During the reporting period, the Joint Office continued to build the capacity of civil society organizations in monitoring economic, social and cultural rights, including assisting them in forming a network to observe the implementation of those rights, which was one of the outcomes of a three-day workshop held in December 2020. The Joint Office has also provided technical advice to the Central Bureau of Statistics to integrate a human rights-based approach to data collection, disaggregation and dissemination.

IV. Accountability and transitional justice

A. Overview

40. The Constitutional Document and the Juba Peace Agreement serve as frameworks towards the creation of an environment conducive to ensuring accountability for crimes committed in the Sudan since 1989 and the establishment of entities to implement the transition agenda, focusing on human rights. A number of investigation mechanisms have already been established by the Attorney General, in addition to the National Independent Investigation Committee established by the Prime Minister on the repressive actions against protesters during the events of 3 June 2019.

41. The slow progress in operationalizing the Independent Commission for the Reform of the Legal and Judicial Systems²¹ has further delayed the reform of the criminal justice system and the security sector, including vetting, the rationalization of forces and the imposition of limitations on the jurisdiction of military courts over civilians. A legal and institutional reform process is fundamental to enabling accountability and ensuring guarantees of non-recurrence. In a related development, on 17 May 2021, the Sovereign Council accepted the resignation of the Attorney General and removed the Chief of Justice, raising concerns over the independence of the judiciary and its ability to face the challenges of the transition. The resignation of the Attorney General and the removal of the Chief Justice followed persistent tensions between the two heads of the justice system and the Dismantling Committee over its decisions on vetting the judicial sector.

B. National Independent Investigation Committee on the events of 3 June 2019²²

42. The establishment of the National Independent Investigation Committee was a crucial step towards assuring justice and accountability for the human rights violations and abuses committed against protesters in Khartoum on 3 June 2019 and in the following days.²³ The Committee has a three-month renewable mandate, which started on 20 October 2019 and has been extended several times. While the current mandate ended on 22 June 2021, the Chair of the Committee announced, on 29 May, that the Committee needs a further three months to conclude its mandate.

43. Reportedly, the Committee documented a considerable amount of recorded audio-visual evidence. At least 3,200 people testified before the Committee, including victims,

²¹ The Independent Commission, created on 22 April 2021, is not yet operational. It will carry out a comprehensive legal and institutional reform of the justice system to ensure its independence and integrity and accountability, including the rule of law.

²² In October 2019, the Prime Minister established the National Independent Investigation Committee to investigate the allegations of human rights violations committed during the deadly dispersal of the sit-in in Khartoum on 3 June 2019.

²³ On that day and in the days after, security forces violently dispersed a pro-democracy protest in Khartoum and targeted other related protests, reportedly killing dozens of civilians.

families of victims and military officials. Concerns remain, however, over the ability of the Committee to carry out its full mandate in accordance with due process rules established by the international standards owing to technical, logistical and financial challenges, as well as to the low level of cooperation on the part of some state institutions, in common with other investigative mechanisms created by the Attorney General. In addition, the inadequate criminal justice legal framework, notably the absence of the principle of criminal liability on the grounds of command or superior responsibility, is a serious legal impediment to the pursuit of criminal justice. Despite the progress made, the Committee faces increasing criticism over delays in releasing the findings of its investigations, including the list of indictments.

C. Transitional justice

44. The Juba Peace Agreement provides for the adoption of a transitional justice law and the establishment of a special criminal court for Darfur crimes, as well as truth-seeking and reconciliations mechanisms. It also creates a comprehensive regime for the consideration of land ownership and *hawakeer* ownership,²⁴ with a strong emphasis on issues affecting internally displaced persons and refugees in Darfur. It further provides for cooperation with the International Criminal Court with regard to Sudanese citizens indicted by the Court. In a historic milestone, on 14 February 2021, the Government of the Sudan signed a memorandum of understanding with the Office of the Prosecutor of the International Criminal Court for cooperation on the trial of Ali Kushayb, who has been in Court custody since June 2020. From 29 May to 4 June 2021, the Chief Prosecutor of the Court visited Darfur, heading a team to investigate crimes and collect evidence.

45. Strong community-based initiatives have been merged to ensure that the victims' families contribute to the investigations on the serious human rights violations, such as the associations of Usar Shuhadaa Thawrat December (Families of Martyrs of the December Revolution) and Mafgoud (Missing Persons). OHCHR urges the Government to respect the right of these associations to cyberactivism on social media and other means to seek information for accountability purposes.

Transitional Justice Commission

46. During the reporting period, the Joint Office provided technical advice to the Ministry of Justice on the draft law on the establishment of the Transitional Justice Commission, which was adopted by the Joint Council on 24 April 2021. The Commission has a clear mandate to lead consultations to define the transitional justice approaches for the Sudan. The Commission has four key objectives: first, to secure transitional justice, including leading nation-wide and inclusive consultations on transitional justice processes; second, to map past human rights violations; third, to outline/draft the transitional justice law; and fourth, to supervise and coordinate the establishment of transitional justice mechanisms. The board of the Commission will be composed of 11 independent commissioners, including at least 4 women and 3 members of civil society. OHCHR welcomes this step, which reflects the Government's political commitment to facilitate remedies and reparations for victims of past human rights violations through a comprehensive transitional justice process. OHCHR also calls for a transparent, inclusive and consultative selection process for the board of commissioners in order to ensure minimum guarantees for the independence of the transitional justice mechanisms.

47. The Joint Office also played a key role in supporting the meaningful participation of civil society in the drafting process through the facilitation of public consultations. On 11 November 2020, the Joint Office organized a consultation workshop in Khartoum, bringing together representatives of the Ministry of Justice with a focus group of 43 participants from civil society, academia, the legal profession and United Nations agencies. The Joint Office also assisted in drafting the report on the consultations and disseminated rule-of-law tools for post-conflict settings.

²⁴ Lands traditionally used by a specific tribal group.

Prosecution initiatives for past human rights violations

48. The Joint Office noted that despite the efforts made by the investigation committees established by the Attorney General to prosecute the leaders of the former regime involved in human rights violations and abuses since 1989,²⁵ progress has been slow. Most of the investigation committees face challenges in carrying out their work owing to a lack of technical and legal expertise, logistical and financial gaps, difficulties in accessing public documents and limited cooperation with other relevant state actors and public bodies.

49. Since 17 April 2019, 23 leaders of the former regime have been detained in Kober prison. Applications to extend their detention are routinely made, according to the law, although some have been released pending trial. Most of the detainees are charged with offences related to the coup d'état of 1989, in addition to other crimes, including: killing; torture; crimes against humanity; embezzlement and misappropriation of public funds; and unjust enrichment. As of 25 May 2021, only nine cases had been referred for trial, while dozens of cases remain under investigation.²⁶

50. In the light of the fact that prolonged detention undermines the civil liberties of detainees, OHCHR urges the Attorney General to take appropriate actions to ensure the conclusion of the investigations against the detained leaders of the former regime and to refer them for fair trial. OHCHR also calls upon the Government to activate the Constitutional Court to ensure the right to due process.

Dismantling Committee for the dismantling of the 30 June 1989 regime and recovering public funds²⁷

51. The Dismantling Committee continues to perform its functions, despite increasing criticism and concerns regarding its proceedings and legitimacy. The Committee's measures range from dissolving associations to dismissing public servants and confiscating property. In a press conference held on 23 January 2021, the Committee announced that it had decided to restore several properties, commercial projects and lands in the cities of Medani and Rufa'a and in Gezira and South Darfur states to several officials of the former regime.²⁸ On 19 February, the Governor of Gezira state took several decisions recovering all shares of the Bahri Al Gezira Poultry Company and cancelling the contract for the North Island dairy project to operate in the state.²⁹ According to the decision, all fixed and movable assets of the two companies are to be devolved to the state's Ministry of Finance.³⁰

52. In addition, in the course of the Committee's work, more than 2,750 public servants, including judges and prosecutors, have been dismissed from their jobs over their perceived affiliation to the former regime.³¹ On 2 May 2021, the total number of dismissed judges reportedly reached 207 (approximately 13 per cent of the total judiciary corps). The number of dismissed prosecutors stood at 49.³²

53. In January 2021, the Chief Justice set up the Appeals Chamber to allow a judicial review of the Committee's decisions. This judicial chamber has received over 2,300 appeals,

²⁵ The Attorney General has created 55 investigative committees to deal with the criminal acts and serious human rights violations that have occurred since 1989, including those under the Transitional Army Council regime of 2019.

²⁶ According to a press release issued by the judiciary on 24 May 2021, available at: <https://suna-sd.net/read?id=713064> [Arabic, English and French].

²⁷ Created by the Law for Dismantling *Ingaz* (Salvation) Regime and Removing Empowerment on 28 November 2019: the Dismantling Committee is responsible for dismantling the presence of the National Congress Party from State bodies, including dismissing public officials, fighting corruption and recovering looted resources, including seizing assets and investment inside and outside the Sudan.

²⁸ See <https://suna-sd.net/read?id=702307>.

²⁹ See www.dabangasudan.org/en/all-news/article/former-elements-of-sudan-s-al-bashir-regime-dismantled-in-el-gezira.

³⁰ See www.dabangasudan.org/en/all-news/article/former-elements-of-sudan-s-al-bashir-regime-dismantled-in-el-gezira.

³¹ Information received from the Dismantling Committee on 29 April 2021.

³² On 22 August 2020, the Dismantling Committee reported the dismissal of 151 judges.

which remain unprocessed. Currently, the Dismantling Committee's self-review procedure is the only method available for oversighting its decisions.

54. OHCHR notes that the concerns raised by the Independent Expert on the situation of human rights in the Sudan in his report of 25 August 2020 remain unaddressed.³³ The Joint Office, in close collaboration with UNITAMS, seeks to support the Government of the Sudan in aligning the work of the Dismantling Committee with international best practices, drawing on lessons learned in other transitional contexts.

V. Conclusions and recommendations

55. OHCHR is encouraged by the positive steps taken by the Government of the Sudan to address systemic human rights and rule-of-law concerns, including commitments to tackle impunity. However, the prolonged precarious situation in Darfur and in South Kordofan and Blue Nile states, coupled with the unresolved root causes of the conflict, often lead to the reoccurrence of violence, resulting in significant civilian displacements, with immediate human rights and protection implications. Following the termination of the UNAMID mandate in December 2020, civilian vulnerability increased, which manifested itself in a series of violent incidents in Darfur. For the most part, the violence was triggered by intercommunal feuds and the impunity arising from weak law enforcement and judicial institutions. Despite some intervention measures by State authorities, the restoration of calm in Darfur has proven to be challenging, with ongoing volatile incidents.

56. OHCHR endorses all recommendations made by the Independent Expert on the situation of human rights in the Sudan in his report of 25 August 2020,³⁴ and makes the following recommendations.

A. Government of the Sudan

57. OHCHR calls upon the Government of the Sudan to continue working with the Joint Office to protect and promote human rights in the Sudan and to facilitate the freedom of movement of its staff within the country, in accordance with the host country agreement.

Protection of civilians

58. OHCHR recommends that the Government of the Sudan take the following measures to protect civilians:

- (a) Operationalize the national plan for the protection of civilians by fully deploying, as a priority, Joint Protection Forces in hotspot areas in Darfur and by ensuring effective oversight of those forces, in accordance with international human rights and humanitarian laws;
- (b) Adopt a comprehensive national strategy on security sector reform and its coherent implementation at the state level; ensure vetting of all members and personnel of security forces, in particular those integrated into Joint Protection Forces, including conducting pre-deployment training on human rights; and ensure accountability in cases of human rights violations;
- (c) Accelerate efforts to collect arms and control the proliferation of small arms, especially in conflict-affected areas;

³³ See A/HRC/45/53, para. 52, in which the Independent Expert noted concerns that the decisions of the Dismantling Committee might degenerate into political purges. If that were the case, such processes would undermine reconciliation, rather than reinforce human rights and the rule of law, and could create resentment among those affected by the process.

³⁴ A/HRC/45/53.

(d) **Implement the National Action Plan on Women, Peace and Security and the framework of cooperation with the United Nations on the prevention and response to sexual violence against women and girls during conflict, including adopting an implementation plan with necessary support from the United Nations.**

Economic, social and cultural rights

59. **OHCHR recommends that the Government of the Sudan take the following steps to ensure economic, social and cultural rights:**

(a) **Take its human rights obligations into account while pursuing economic reforms, including carrying out human rights impact assessments of economic reform policies, in line with the guiding principles developed by the Independent Expert on the effects of foreign debt in 2019, in accordance with Human Rights Council resolutions 34/03 and 37/11: such an assessment should be conducted by ensuring the effective, timely and meaningful participation of all groups;**

(b) **Take appropriate actions to move from the current fragmented social protection schemes to the building of an integrated social security and protection system, in accordance with its international human rights obligations (articles 9 and 10 of the International Covenant on Economic, Social and Cultural Rights) and also in line with target 3 of Sustainable Development Goal 1 and ILO Social Protection Floor Recommendation No. 202 (2012): this will entail defining social protection neither as an emergency response to a situation of crisis, nor as charity, but rather as a set of permanent entitlements prescribed by domestic legislation, the allocation of adequate resources, the defining of individuals as rights-holders and guaranteeing individuals access to independent claims mechanisms if they are denied the benefits for which they qualify.**

Human rights mechanisms

60. **OHCHR recommends the following actions in the field of human rights:**

(a) **Accede to the international human rights instruments that the Sudan is not yet a party to, in particular the Convention on the Elimination of All Forms of Discrimination against Women, without reservations that are incompatible with the objective and purpose of the Convention, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;**

(b) **Ensure a consultative approach to the reform of the National Human Rights Commission, with a broad mandate to protect and promote human rights, including economic, social and cultural rights, in compliance with the Paris Principles, as well as a transparent, inclusive and consultative process for the appointment of the members of the board of the Commission.**

Accountability

61. **OHCHR recommends that the Government of the Sudan take the following steps to ensure accountability:**

(a) **Provide adequate human and financial resources and capacity-building programmes for prosecutorial investigation mechanisms to enable prompt, independent, impartial, thorough and transparent investigations into serious violations of international humanitarian law and gross violations of human rights and abuses;**

(b) **Provide necessary follow-up to the report of the National Independent Investigation Committee on the events of 3 June 2019 in order to make its findings public and ensure the right to truth, justice and reparations for victims and their families, and hold all those responsible to account, without exception;**

(c) **Implement the transitional justice mechanisms foreseen in the Juba Peace Agreement, including the establishment of the Darfur special criminal court, and ensure a transparent and inclusive selection process for the Transitional Justice**

Commission, as well as adequate logistical, human and financial resources to enable the Commission to carry out its mandate;

(d) Ensure that all cases of unlawful arrest and detention and ill-treatment are processed promptly by independent judicial bodies, in accordance with international due process and fair trial standards;

(e) Systematically investigate human rights violations and abuses, including cases of indiscriminate and/or excessive use of force by law enforcement officials and violations and abuses perpetrated in the context of intercommunal violence, and hold the perpetrators accountable;

(f) Continue cooperating with the Joint Office to adopt and put in place a rights-compliant vetting process connected to the holistic and comprehensive transitional justice framework in the Sudan, including the granting of timely judicial appeals for persons affected by the decisions of the Dismantling Committee.

Reforms

62. OHCHR recommends consideration of the following reforms:

(a) Establish a transitional legislative council that is inclusive and gender-balanced in decision-making, operationalize the Independent Commission for the Reform of the Legal and Justice Systems and enact further legal reforms aimed at enhancing the protection of human rights, including limiting sentencing to the death penalty only for the most serious crimes, within the meaning of article 6 (2) of the International Covenant on Civil and Political Rights, and the removal of immunities that prevent the effective prosecution of serious human rights violations;

(b) Create an enabling environment to protect human rights defenders in law and in practice, including through the establishment of protection mechanisms for human rights defenders;

(c) Adopt a comprehensive anti-discriminatory law to promote equality and combat discrimination based on gender, ethnicity, religion, region, disability, sexual orientation or any other social status.

B. Armed movements

63. OHCHR calls upon the two armed groups that are not parties to the Juba Peace Agreement to maintain the ceasefire and to continue engagement in genuine negotiation with the Government of the Sudan to achieve durable peace and reconciliation in the interest of the people of the Sudan.

C. International community

64. OHCHR calls upon the international community to:

(a) Maintain engagement with the Government of the Sudan to ensure the implementation of the Juba Peace Agreement and the national plan for the protection of civilians, including the immediate deployment and operationalization of Joint Protection Forces in Darfur;

(b) Continue coordinated political advocacy in support of the Juba peace process to ensure that the two holdout armed groups join the peace process;

(c) Continue advocacy with the signatories to the Juba Peace Agreement to end recruitment, including the forced recruitment of children;

(d) Support diplomatic and peaceful resolution of the conflict between the Sudan and Ethiopia on their borders and on the Grand Ethiopian Renaissance Dam: regional stability is key to the internal security and development of the Sudan;

(e) Continue to provide financial and diplomatic support for the United Nations Joint Human Rights Office in the Sudan in order to ensure the provision of technical assistance for reform plans.
