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Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan into violations of international human rights law and international humanitarian law, and related crimes, committed in the Sudan in the context of the conflict that erupted in mid-April 2023*

* Information complementary to that contained in the official report (A/HRC/57/23), submitted to the Human Rights Council pursuant to its resolution 54/2.

Summary

The conflict that erupted in mid-April 2023 in the Sudan, now in its second year, continues to have a severe impact on civilians. It has engulfed most of the Sudan, resulting in thousands of killings, injuries, extensive displacement and destruction of residential homes, hospitals, schools and other critical infrastructure. The evidence collected by the Fact-Finding Mission shows that both the Sudanese Armed Forces (SAF) and the Rapid Response Forces (RSF), and their respective allied militias, have committed large-scale human rights and international humanitarian law violations, many of which may amount to war crimes and/or crimes against humanity.

Both the SAF and the RSF have attacked civilians and civilian objects, including through airstrikes and heavy artillery shelling in densely populated areas, notably in Khartoum and Darfur. Both are responsible for violating children's rights, including through killing and maiming. Both have engaged in a pattern of arbitrary arrest and detention as well as torture and ill-treatment in areas under their control, also amounting to war crimes. Both have imposed broad internet shutdowns and curtailed freedom of information and expression, including through attacks on media, journalists and human rights defenders. Both obstructed access to humanitarian aid for civilians in need.

The RSF and its allied militias have also committed other war crimes and crimes against humanity. These include widespread sexual and gender-based violence, rape, sexual slavery, abduction, and recruitment and use of children in hostilities. The RSF and its allied militias have also systematically engaged in pillage and looting. They have further committed large-scale attacks based on intersecting ethnicity and gender grounds, especially against the Masalit community in El Geneina, including killings, torture, rape, and other forms of sexual violence, amounting to persecution.

The situation remains grim as the conflict rages on, causing civilians immense suffering. More than 10.7 million are displaced, and 2.1 million have fled the country. Nearly half of the population (25.6 million) is facing hunger.

To protect civilians in the Sudan and prevent further violations, the Fact-Finding Mission has made a number of urgent recommendations, including the following:

- (i) an immediate and sustainable ceasefire;
- (ii) effective delivery of humanitarian assistance;
- (iii) deployment of an independent and impartial force with a mandate to protect civilians in the Sudan;
- (iv) compliance with the existing arms embargo imposed in Darfur pursuant to Security Council Resolution 1556 (2004) and the expansion of this embargo to cover the whole of the Sudan;
- (v) increased financial and other support for the refugees and the host communities;
- (vi) ending sexual violence, and enabling women, and youth to meaningfully participate in any peace negotiations or initiatives;
- (vii) protecting children and ending their recruitment and use in the conflict;
- (viii) pursuing a comprehensive approach to transitional justice based on inclusive dialogue and genuine consultations;
- (ix) expanding the existing jurisdiction of the International Criminal Court over Darfur to cover the entire Sudan; Sudan should cooperate with the Court through surrendering to it all indicted persons, including former President Omar Al-Bashir;
- (x) establishing a separate international judicial mechanism working in tandem and complementarity with the International Criminal Court, as well as a truth commission, and a dedicated victim's support and reparations office.

The Fact-Finding Mission applauded the various efforts to bring the warring parties to the table and urged that its findings and recommendations be taken into account during any peace negotiations.

I.	Introduction.....	6
II.	Scope of the Mandate	6
III.	Methodology and Standard of Proof.....	7
	A. Engagements and Consultations	7
	B. Investigations and Verification of Information	10
	C. Field Missions.....	11
	D. Constraints and Limitations	12
IV.	Applicable law	13
	A. International human rights law	13
	B. International humanitarian law	13
	C. International criminal law	14
	D. Security Council Resolutions.....	14
	E. Jeddah Declaration	15
	F. National Law.....	16
V.	The Present Conflict	17
	A. Timeline of Key Political and Military Developments.....	17
	B. International and Regional Political Initiatives	19
	C. United Nations and African Union Peacekeeping Initiatives in the Sudan	20
	D. Key Actors to the Conflict	22
VI.	Root causes of violations in the context of the ongoing armed conflict.....	27
VII.	Findings on violations of international human rights law and humanitarian law.....	31
	A. Conduct of Hostilities.....	31
	B. Ethnic-based attacks in El Geneina.....	37
	C. Sexual and Gender-Based violence.....	40
	B. Grave violations against children.....	53
	E. Arbitrary arrests and detention.....	58
	F. Torture and other cruel inhuman and degrading treatment or punishment.....	61
	G. Suppression of free speech, information and media.....	63
	H. Access to Humanitarian aid.....	66
VIII.	International Crimes and their Perpetrators.....	67

IX. Accountability.....69

X. Options for accountability and access to justice for victims.....77

XI. Conclusions and Recommendations.....79

I. Introduction

1. In its resolution 54/2 of 11 October 2023, the Human Rights Council established the Independent International Fact-Finding Mission for the Sudan (hereinafter “the Fact-Finding Mission”) composed of three experts, for an initial period of one year. The Fact-Finding Mission is mandated *inter alia* to investigate and establish the facts, circumstances and root causes of all alleged human rights violations and abuses and violations of international humanitarian law, and related crimes, in the context of the ongoing armed conflict that began on 15 April 2023, between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF), as well as other warring parties.¹ The resolution also mandates the Fact-Finding Mission to collect, consolidate and preserve evidence of such violations and abuses; to identify, where possible, those individuals and entities responsible with a view to ensuring they are held accountable; and to make recommendations, in particular on accountability measures and access to justice for victims.² The Human Rights Council requested the Fact-Finding Mission to present a comprehensive report of its findings at its fifty-seventh session.³
2. On 18 December 2023, the President of the Human Rights Council appointed Mohamed Chande Othman (Tanzania) (Chairperson), Mona Rishmawi (Jordan/ Switzerland) and Joy Ngozi Ezeilo (Nigeria) to serve as the three independent experts of the Fact-Finding Mission.
3. Despite the best efforts of the Office of the United Nations High Commissioner for Human Rights (OHCHR), there was a considerable delay in establishing the Secretariat of the Fact-Finding Mission due to the liquidity crisis experienced by the United Nations Secretariat in 2023/2024. The Secretariat was eventually established in May 2024 in Nairobi, Kenya, with approximately two-thirds of the staff that was allocated to it.⁴ Prior to the establishment of the Secretariat, the OHCHR provided a small team of experienced Geneva-based staff to support its initial investigations. The Fact-Finding Mission is grateful to the High Commissioner and the Deputy High Commissioner for their efforts in facilitating the implementation of its mandate.
4. The Fact-Finding Mission presented an oral update to the Human Rights Council on 18 and 19 June at its fifty-fourth session, providing details relating to its work and an overview of its initial observations regarding areas under investigation.⁵
5. On 10 September 2024, the Fact-Finding Mission presented its report to the Human Rights Council (A/HRC/57/23). This Conference Room Paper (CRP) elaborates on the findings of the investigations conducted by the Fact-Finding Mission. It provides a more detailed description of the patterns of human rights violations and abuses and violations of international humanitarian law in the Sudan since mid-April 2023 and related crimes. It also develops accountability pathways, conclusions, and recommendations. The draft CRP was sent to the Government of the Sudan on 16 October 2024 for its views by 22 October 2024. No response was received.

II. Scope of the Mandate

6. The mandate of the Fact-Finding Mission, pursuant to Human Rights Council resolution 54/2, contains five key elements. First, the Fact-Finding Mission is mandated to “investigate and establish the facts, circumstances and root causes” of all alleged human rights violations and abuses and violations of international humanitarian law and related crimes. In line with this requirement, the Fact-Finding Mission conducted investigations into

¹ A/HRC/RES/54/2, adopted by the Human Rights Council on 11 October 2023.

² A/HRC/RES/54/2, para. 18 (b)–(e).

³ A/HRC/RES/54/2 para. 18 (f).

⁴ The General Assembly approved a budget of 17 staff to support the work of the Fact-Finding Mission.

⁵ Oral update delivered by Mohamed Chande Othman, Chairperson of the Independent International Fact-Finding Mission for the Sudan. <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffm-sudan/2024-06-18-Oral-Update.pdf>, 18 June 2024.

allegations of human rights violations and abuses, and violations of international humanitarian law, including those that may amount to international crimes.

7. Second, the Fact-Finding Mission is mandated to collect, consolidate and analyze evidence of violations and abuses. In this regard, the Fact-Finding Mission has systematically compiled, analyzed and securely preserved information and evidence collected while ensuring that the established protocols on preserving such information and its chain of custody are followed. The Fact-Finding Mission is safeguarding all information submitted to it in line with applicable United Nations regulations, rules, policies and procedures, in particular the Secretary-General's bulletins on data protection, on information sensitivity, classification and handling, and on recordkeeping and the management of United Nations archives.⁶ All information collected is preserved in the Fact-Finding Mission's secure platforms.

8. Third, the resolution mandates the Fact-Finding Mission to document and verify relevant information and evidence, including through field engagement, and to cooperate with judicial and other entities, as appropriate. In discharging this aspect of the mandate, apart from documenting the accounts of victims and witnesses of violations of human rights and international humanitarian law, the Fact-Finding Mission prioritized field visits to the Sudan and to its neighbouring countries, including Chad, Central African Republic, Egypt, Eritrea, Ethiopia, Kenya, South Sudan and Uganda in order to obtain, document and verify information and evidence, including from those who had fled from the Sudan to other locations following the outbreak of the violence. The Fact-Finding Mission has approached all those States requesting visits and has so far conducted visits to Chad, Kenya and Uganda. The Fact-Finding Mission also initiated engagement with relevant judicial mechanisms, including the International Criminal Court.

9. Fourth, the Fact-Finding Mission is mandated to identify, where possible, those individuals and entities responsible for violations and abuses of human rights and violations of international humanitarian law, and related crimes, in the Sudan, to ensure that they are held accountable. At this stage, the Fact-Finding Mission has mapped out internal institutional command-and-control structures and identified specific units responsible for violations. The Fact-Finding Mission is also in the process of gathering and analyzing information linking individuals to specific incidents. It maintains a confidential list of persons of interest with a view to preparing confidential dossiers in relation to any individual who may be responsible for violations of human rights and international humanitarian law, including those that may amount to international crimes.

10. Finally, the Fact-Finding Mission is mandated to make recommendations, in particular on accountability measures and access to justice for victims. To fulfil this part of the mandate, the Fact-Finding Mission has consulted with stakeholders on the recommendations presented in this report, including with victims, their families, Sudanese professionals, civil society organizations, international and regional organizations, and other experts in accountability mechanisms.

III. Methodology and Standard of Proof

A. Engagements and Consultations

11. Pursuant to its mandate, the Fact-Finding Mission has engaged with Sudanese community leaders, civil society organizations, Sudanese victims and survivors,⁷ experts, organizations and entities involved in the situation in the Sudan, including United Nations entities, and diplomatic missions. These engagements were conducted both online and in person during missions to Chad, Kenya, Switzerland and Uganda.

12. The Experts conducted an initial mission to Geneva from 14 to 17 January 2024, a second mission from 13 to 20 June 2024, and a third mission from 4 to 11 September 2024.

⁶ See ST/SGB/2024/1, ST/SGB/2007/6 and ST/SGB/2007/5.

⁷ The term survivor should be read as interchangeable with victim as defined by A/RES/60/147, para. 10.

During these missions, they held consultations with the United Nations High Commissioner for Human Rights, his Deputy and his Office,⁸ and the President of the Human Rights Council.⁹ The Experts also held discussions with the designated Expert on human rights in the Sudan¹⁰, the United Nations Secretary-General's Personal Envoy on the Sudan,¹¹ the Under-Secretary-General and Special Advisor on the Prevention of Genocide,¹² the Special Representative of the Secretary-General on Sexual Violence in Conflict, the Special Representative of the Secretary-General on Children and Armed Conflict,¹³ the Panel of Experts on the Sudan,¹⁴ and other senior United Nations officials. The Fact-Finding Mission further engaged with the Sudan Country Rapporteur of the African Commission on Human and Peoples' Rights,¹⁵ the African Union Special Envoy for the Prevention of Genocide and other Mass Atrocities¹⁶ and the International Criminal Court.¹⁷ It also reached out to the League of Arab States,¹⁸ the Intergovernmental Authority on Development (IGAD),¹⁹ and the Organization of Islamic Cooperation²⁰ with requests for dialogue and cooperation, to coordinate efforts and ensure complementarity, as required by Resolution 54/2.²¹

13. As per its mandate, the Fact-Finding Mission reached out to the Government of Sudan on four occasions. On 3 and 29 January 2024, the Fact-Finding Mission sent correspondence to the Permanent Mission of the Sudan to the United Nations Office in Geneva requesting a meeting, and to visit the Sudan during the month of February 2024. On 7 June 2024, the Fact-Finding Mission sent another correspondence to the Government of the Sudan requesting a meeting in Geneva. On 9 August 2024, the Fact-Finding Mission reiterated its request to visit the Sudan. On 23 August 2024, the Fact-Finding Mission sent the draft report A/HRC/57/23 to the Sudan requesting comments on any factual errors or inaccuracies by 1 September 2024. All these communications remain unanswered. On 2 September 2024, Sudan sent a letter to the President of the Human Rights Council regarding the draft report.²² The Fact-Finding Mission considers it important to engage with the Sudanese authorities and to visit the Sudan in accordance with its mandate.

14. The RSF sent correspondence to the President of the Human Rights Council, through OHCHR, on 20 December 2023, offering full cooperation with the Fact-Finding Mission. The RSF followed up on this letter in July 2024, informally requesting for a meeting with the Fact-Finding Mission, following which there was some informal communication with the Secretariat of the Fact-Finding Mission, which, on 28 August 2024, offered the RSF an opportunity to engage with it about the allegations. On 10 September 2024, the RSF addressed a letter to the Chair of the Fact-Finding Mission, expressing appreciation for the

⁸ Meeting with the High Commissioner held on 16 January 2024; with the Deputy High Commissioner on 11 September 2024; and multiple meetings with the High Commissioner's Office.

⁹ Meetings with the President of the HRC held on 17 January, 20 June and 10 September 2024.

¹⁰ Meetings held on 4 March and 2 July 2024.

¹¹ Meeting held on 20 March 2024.

¹² Meeting held on 15 January 2024.

¹³ Meeting held on 26 March 2024.

¹⁴ Meeting held on 11 June 2024.

¹⁵ Meeting held on 20 February 2024.

¹⁶ Meeting held on 7 August 2024.

¹⁷ Meeting held on 27 June 2024.

¹⁸ Notes verbales sent on 2 February, 10 June and 28 August 2024.

¹⁹ Note verbale sent on 2 February 2024.

²⁰ Meetings held on 13 June and 11 September 2024.

²¹ A/HRC/RES/54/2, para. 22. The Council requested the Fact-Finding Mission to "give due regard to ensuring the complementarity of its efforts with those of other actors, in particular the Secretary-General and his Special Representative for the Sudan, the High Commissioner, the Office of the High Commissioner and the designated Expert, as well as the African Union and other appropriate regional and international entities, drawing on the expertise of, inter alia, the United Nations Organization, the African Union, the African Commission on Human and Peoples' Rights, the Intergovernmental Authority on Development and the League of Arab States, and international, regional, State and civil society actors to the extent practicable."

²² Letter of the Republic of Sudan to the President of the Human Rights Council, Observations of the National Committee to Investigate Crimes & Violations of National Law and International Humanitarian Law on the report of the IFFM for the Sudan, 2 September 2024, No. NCCV/Correspondence/2024, Ref M.262.24 (draft translation from Arabic into English, 5 September 2024).

work of the Fact-Finding Mission, reiterating its commitment to cooperate and expressing regret for the absence of engagement and an opportunity to respond to certain allegations.

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

16. As mentioned earlier, the Fact-Finding Mission also reached out to the Governments of the Sudan's neighbouring countries: Central African Republic,²³ Chad,²⁴ Egypt,²⁵ Eritrea,²⁶ Ethiopia,²⁷ Kenya,²⁸ South Sudan,²⁹ and Uganda,³⁰ requesting their cooperation and access to their territories in order to gather first-hand testimonies and other information from victims of the conflict. Following positive responses from the Governments of Chad, Kenya, and Uganda, for which the Fact-Finding Mission is grateful, the Fact-Finding Mission was able to carry out visits to these three States. The Fact-Finding Mission is still in dialogue with the other neighbouring States. The Fact-Finding Mission has met with several States, in the course of discharging its mandate, to seek their cooperation, support, and where relevant, access to their countries. The African Union,³¹ Cameroon,³² Canada,³³ Central African Republic,³⁴ Egypt,³⁵ European Union,³⁶ Germany,³⁷ Ghana,³⁸ Japan,³⁹ Kyrgyzstan,⁴⁰ Nigeria,⁴¹ Norway,⁴² the Organization of Islamic Cooperation,⁴³ Sierra Leone,⁴⁴ South

²³ Notes verbales sent to the Ambassador of the Central African Republic in Geneva on 9 January and 6 June 2024; and to the Ambassador in N'Djamena on 8 July 2024.

²⁴ Notes verbales sent to Chad on 9 January 2024, 2 February, 16 April 2024, 7 June 2024, and on 18 June 2024. Meetings were held with the Ambassador of Chad in Geneva on 8 April and 13 June 2024.

²⁵ Notes verbales sent to the Ambassador of Egypt in Geneva on 6 February 2024, 9 January, 7 June and 29 August 2024; to the Ambassador of Egypt in N'Djamena on 9 July 2024; and on 7 August 2024 to the Ambassador of Egypt in Nairobi.

²⁶ Note verbal sent to the Eritrean Ambassador in Nairobi on 8 August 2024.

²⁷ Notes verbales sent to Ethiopia on 15 February 2024, 10 January and 7 June 2024.

²⁸ Notes verbales sent to Kenya on 3 January, 19 April, 7 June and 6 August 2024; and a meeting was held with the Ambassador of Kenya in Geneva on 16 January 2024.

²⁹ Notes verbales sent to the Republic of South Sudan on 2 February 2024, 7 June and 28 August 2024.

³⁰ Notes verbales sent to Uganda on 3 January, 2 February, 7 June; and on 6 August 2024.

³¹ Meetings held with the African Union Mission in Geneva on 13 June 2024; and with the African Union Mission in N'Djamena on 10 July 2024.

³² Meeting held with the Ambassador of Cameroon in N'Djamena on 10 July 2024.

³³ Meeting held with Canada, the European Union, United Kingdom and the United States of America in N'Djamena on 2 July 2024.

³⁴ Meeting held with the Ambassador of the Central African Republic in N'Djamena on 10 July 2024.

³⁵ Meetings held with the Egyptian Embassy in N'Djamena on 10 July 2024, and in Nairobi on 18 August 2024.

³⁶ Meetings held with the EU in Geneva on 17 June and 9 September 2024; and jointly with Canada, the US and UK in N'Djamena on 2 July 2024. The Fact-Finding Mission also met with the EU Ambassador for Khartoum in Geneva on 19 June 2024.

³⁷ Meetings held with Germany, Norway, the United Kingdom, and the United States of America in Geneva on 16 January, 14 June, and 4 September 2024; in Nairobi on 15 August 2024, and they also joined a meeting in N'Djamena on 2 July 2024.

³⁸ Meeting held with the Human Rights Team of the Ghana Permanent Mission in Geneva on 13 June 2024.

³⁹ Meeting held with representatives of the Japan and South Korea Embassies on 4 September 2024.

⁴⁰ Meeting held with the Ambassador of Kyrgyzstan in Geneva on 9 September 2024.

⁴¹ Meetings held with the Nigerian Permanent Mission in Geneva on 14 June 2024; and with the Nigerian Embassy in N'Djamena on 9 July 2024.

⁴² Meetings held with Germany, Norway, the United Kingdom, and the United States of America in Geneva on 16 January, 14 June, and 4 September 2024; in Nairobi on 15 August 2024, and they also joined a meeting in N'Djamena on 2 July 2024. Norway also organised a meeting with the Fact-Finding Mission and other delegations on 11 September 2024.

⁴³ Meetings held with the Organization for Islamic Cooperation on 13 June and 13 September 2024.

⁴⁴ Meeting held with the Ambassador of Sierra Leone in Geneva on 18 June 2024.

Africa,⁴⁵ South Korea,⁴⁶ South Sudan,⁴⁷ Switzerland,⁴⁸ United Kingdom,⁴⁹ and United States of America⁵⁰ responded positively, and meetings were held, in Chad, Kenya and Switzerland.

B. Investigations and verification of information

17. The Fact-Finding Mission gathered information through the following methods.

1. Submissions

18. In January 2024, the Fact-Finding Mission issued a public call for written submissions,⁵¹ and subsequently received substantial information and documentation from individuals and organizations. Overall, the Fact-Finding Mission received 686 submissions by the deadline set on 31 July 2024, which it carefully examined.

2. Reports of International, Regional and Non-Governmental Organizations

19. The Fact-Finding Mission examined information contained in reports from various sources, including United Nations entities, regional and international bodies and non-governmental organizations. Considering that the Fact-Finding Mission began its work several months into the conflict, it found these reports useful especially in understanding the background to the conflict, the timeline of various developments, and providing valuable leads for the investigations of the Fact-Finding Mission.

3. Consultations

20. The Fact-Finding Mission held extensive in-person and online consultations with experts, regional non-governmental organizations, Sudanese civil society organizations, and victims and survivors, on the situation in the Sudan, including the impact of the conflict on women's rights and women human rights defenders with Sudanese women human rights defenders and feminist activists;⁵² the violations of the rights of children in the Sudan, including child recruitment and use in armed groups, child detention and in internally displaced persons camps;⁵³ root causes;⁵⁴ and the enhancement of justice and accountability, as well as victim reparations for Sudanese victims.⁵⁵

4. Interviews

21. The Fact-Finding Mission obtained first-hand information through direct interviews with victims, their families, eyewitnesses, first-line responders and other sources. As of 31 July 2024, the Fact-Finding Mission had conducted in-depth interviews with 182 individuals (67 women and 115 men).

⁴⁵ Meeting held with the Ambassador of South Africa in Geneva on 11 September 2024.

⁴⁶ Meeting held with representatives of the Japan and South Korea Ambassies in Geneva on 4 September 2024.

⁴⁷ Meetings held with the Ambassador of the Republic of South-Sudan in Geneva on 17 January and on 5 September 2024.

⁴⁸ Meetings held with the Swiss Special Envoy for the Horn of Africa in Nairobi on 16 and 29 August 2024.

⁴⁹ Meetings held with Germany, Norway, the United Kingdom, and the United States of America in Geneva on 16 January, 14 June, and 4 September 2024; in Nairobi on 15 August 2024, and they also joined a meeting in N'Djamena on 2 July 2024.

⁵⁰ Ibid.

⁵¹ Call for Submissions, available at <https://www.ohchr.org/en/hr-bodies/hrc/ffm-sudan/call-for-submissions>.

⁵² Two such consultations were held online on 20 March and 05 June 2024 with Sudanese women rights defenders who had fled from the Sudan.

⁵³ A consultation was held on 7 May at which seven Sudanese experts on child rights provided briefings to the Experts.

⁵⁴ Consultations held on 29 February and 19 March 2024.

⁵⁵ The Fact-Finding Mission held meetings in Geneva on 20 June 2024, and online on 08 August 2024, with Sudanese experts on this subject-matter. The Fact-Finding Mission also held consultations on these issues with Sudanese civil society and victims in Geneva, Kenya, Chad and Uganda.

C. Field Missions

1. Visits to Kenya

22. The Fact-Finding Mission conducted two visits to Kenya, the first from 20 to 25 May, and the second from 14 to 18 August 2024. During these visits, it held meetings with individuals, organizations and diplomatic missions, and obtained vital information on the situation in the Sudan, and allegations of violations of human rights law and international humanitarian law, which it subsequently investigated.

2. Visit to Chad

23. The Fact-Finding Mission also undertook a visit to Chad from 30 June to 18 July 2024. At the time of the Fact-Finding Mission's visit, Chad hosted more than 620,000 refugees from the Sudan and continued to receive new arrivals daily. The Fact-Finding Mission met with various groups and entities in N'Djamena, including the United Nations country team, humanitarian organizations and diplomats. The Fact-Finding Mission also travelled to the eastern part of the country, where it visited Abeche, Adré and Farchana. At the refugee camps in Adré and Farchana, the Fact-Finding Mission engaged directly with refugees who had fled from the Sudan since the outbreak of the conflict, obtaining first-hand accounts of their lived experiences.

3. Visit to Uganda

24. The Fact-Finding Mission visited Uganda from 18 to 21 August 2024 to consult with Sudanese experts and civil society and managed to fill important evidence gaps in the information it had collected on allegations of violations of human rights law and international humanitarian law, committed in the Sudan since mid-April 2023.

25. During all field missions, the Fact-Finding Mission also obtained views on justice and accountability, and reparations for the victims. The Fact-Finding Mission expresses its gratitude to victims and witnesses who shared their accounts, and all the individuals and organizations it engaged with.

4. Guiding Principles

26. In discharging its mandate, the Fact-Finding Mission strictly adhered to the principles of independence, impartiality, objectivity, transparency, confidentiality, and integrity. The Fact-Finding Mission also sought to integrate gender considerations in discharging its mandate, including by incorporating gender-sensitive methodologies and tools for collecting, analyzing and reflecting the information.

27. The Fact-Finding Mission attaches the utmost importance to the protection of sources, and the 'do no harm' principle by taking all measures not to jeopardize the safety, security and well-being of victims, witnesses, and other persons cooperating or providing information to it. In this regard, the Fact-Finding Mission made efforts to assess the level of risks and adopted measures to mitigate any identified risks. The Fact-Finding Mission also ensured it had the informed consent from each person it interviewed to use or share the information provided. As such, the Fact-Finding Mission has included in A/HRC/57/23 and this CRP only information for which the sources provided consent, and only where such inclusion would not place the sources at risk. It has also anonymized the sources of information and omitted any identifying information.

28. The Fact-Finding Mission also implemented measures at every stage of data handling to preserve the security and confidentiality of the information submitted to it and protect the privacy and personal data of the sources. In particular, the Fact-Finding Mission utilized secure submission channels with controlled access to submission portals, and ensured all evidence is registered in a secure digital log. By adopting strict guidelines and utilizing advanced technologies, the Fact-Finding Mission ensured that its information remained secure and reliable.

5. Standard of Proof

29. In line with the practice adopted by United Nations investigative bodies, the Fact-Finding Mission applied the “reasonable grounds to believe” standard of proof. It has made findings of fact and law only where it was able to obtain sufficient reliable and corroborated information, based on which a reasonable and ordinarily prudent person would have reason to believe that such an incident or pattern of conduct occurred as described. The phrase ‘the Fact-Finding Mission finds’ as used throughout A/HRC/57/23 and this CRP is reflective of this standard being met. In applying this standard, the Fact-Finding Mission also took into consideration the nature of allegations under investigation,⁵⁶ the facts it sought to establish,⁵⁷ and the sources of information.⁵⁸

30. With regard to documenting and establishing facts, the Fact-Finding Mission based itself on at least one credible direct source of information, independently corroborated by at least two or more credible sources of information. Where the Fact-Finding Mission identified patterns of conduct, these are based on establishing consistency and similarity of certain types of conduct based on information provided by several independently verified credible direct sources and corroborated by the overall body of credible information collected. The latter approach is applied to the documentation of violations and abuses where a second independent source may not be available because survivors/victims faced their attacker in an isolated location, in particular in relation to cases of torture, ill-treatment, rape or other forms of sexual violence, including in detention settings.

D. Constraints and Limitations

31. The Fact-Finding Mission’s investigations were affected by various challenges, including time and resource constraints. The delay in the establishment of the Secretariat, and the lack of adequate staffing impacted the Fact-Finding Mission’s ability to comprehensively gather, verify and analyze all the allegations of violations and abuses committed since mid-April 2023 in the Sudan.

32. The work of the Fact-Finding Mission was also affected by the lack of access to the Sudan and some neighboring countries. This prevented the Fact-Finding Mission from reaching victims, survivors and witnesses who fled key conflict zones. Nevertheless, the Fact-Finding Mission was able to obtain and verify sufficient amounts of relevant information that enabled it to establish facts and patterns of violations. The Fact-Finding Mission continues to request the Sudanese authorities and the neighbouring countries to grant it access to their territories, which is crucial for the implementation of the mandate.

33. Given these limitations, the Fact-Finding Mission prioritized incidents on the basis of cross-cutting thematic violations, while also outlining violations in certain geographical locations, including Darfur and Khartoum. The findings presented in A/HRC/57/23 and this

⁵⁶ See International Court of Justice (ICJ), judgement concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Elimination of all Forms of Racial Discrimination (Ukraine v. Russian Federation)*, para. 170 where the Court recalled that the standard of proof may vary from case to case, inter alia, depending on the gravity of the allegation recalling *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, paras. 209-210. The Court further recalled that in cases involving allegations of massive human rights violations, the Court has previously required “convincing” evidence, referencing *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, para. 210, and para. 237).

⁵⁷ *Ibid.*, para.169 for the position that the burden of proof varies depending on the type of facts to be established.

⁵⁸ *Ibid.*, at paras 175 – 178 for evidentiary weight on different sources of information. The Court observed that it “will treat with caution ... materials emanating from a single source. It will prefer contemporaneous evidence from persons with direct knowledge.” Further, “certain materials, such as press articles and extracts from publications, are regarded “not as evidence capable of proving facts, but as material which can nevertheless contribute, in some circumstances, to corroborating the existence of a fact, i.e. as illustrative material additional to other sources of evidence”, as noted in *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, para. 62, or when they are “wholly consistent and concordant as to the main facts and circumstances of the case” (*United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*, Judgment, para. 13; and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, para. 68.

CRP are therefore not exhaustive but illustrative of the patterns of violations established by the Fact-Finding Mission.

IV. Applicable Law

34. In pursuance of its mandate, the Fact-Finding Mission has investigated alleged human rights violations and abuses, violations of international humanitarian law and related crimes. It considers that the wording ‘related crimes’ should be read as including the three core international crimes, namely war crimes, crimes against humanity and genocide. To make legal determinations based on its findings of fact, the Fact-Finding Mission has applied international human rights law, international humanitarian law, and international criminal law. It has also considered additional commitments undertaken by the Sudan as well as regional instruments to which the Sudan is a party, and domestic legislation, as applicable.

A. International Human Rights Law

35. The Sudan is a party to seven of the nine core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Convention for the Protection of All Persons from Enforced Disappearance (CED), and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). At the regional level, it is a party to, among others, the African Charter on Human and People’s Rights (ACHPR) and the African Charter on the Rights and Welfare of the Child (ACRWC).

36. Notably, the Sudan has not acceded to the Convention on the Elimination of All Forms of Discrimination against Women. It signed, but did not ratify, the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol). In line with the 1969 Vienna Convention on the Law of Treaties, the Sudan must however by way of this expression to be bound by the Maputo Protocol in good faith refrain from acts that would defeat its object and purpose.

37. The Sudan is also a party to the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). In 2005, it became a party to the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (OP-CRC-AC) prohibiting the compulsory recruitment or use in hostilities of any person below the age of 18.⁵⁹

38. In addition to its treaty obligations, the Sudan is also bound by relevant rules of customary international human rights law. These comprise most of the provisions of the Universal Declaration on Human Rights. The body of international human rights law applies at all times, including in situations of armed conflict.

B. International Humanitarian Law

39. The Sudan is a state party to the four Geneva Conventions of 1949, as well as their two Additional Protocols of 1977. It is also a party to, among others, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. Together with customary international humanitarian law, including the principles of necessity, humanity, proportionality, distinction and precaution in an attack, this set of laws applies to situations of armed conflict and seeks to regulate the means and methods of warfare to limit human suffering and preserve the dignity of the person. International humanitarian law applies concurrently with international human rights law.

⁵⁹ See further under Chapter VII, Section D on grave violations against children.

40. In mid-April 2023, fighting broke out in the Sudan between the SAF and RSF, soon involving other armed actors. The military confrontations quickly reached a high degree of intensity, the RSF seized control of territory in Khartoum and beyond, and have continued to carry out sustained and concerted military operations in the Sudan. The Fact-Finding Mission determined that the threshold for the existence of a non-international armed conflict to which Common Article 3 to the Geneva Conventions of 1949 and its Additional Protocol II relating to the Protection of Victims of Non-International Armed Conflict apply, have been met. Protocol II applies to armed conflicts taking place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups. Along with relevant rules of customary humanitarian law, it is applicable and binding on all parties to the conflict.

41. The classification of the RSF as a terrorist organization by the Sudanese authorities does not alter the application of international humanitarian law or the obligations placed on the parties to the conflict. These obligations entail that all parties to the conflict treat protected persons humanely under all circumstances. It prohibits, among others, violence to life and person, outrages upon personal dignity, including rape and indecent assault, slavery and pillage, and recruitment and use of children below the age of 18.⁶⁰ It further dictates that civilians shall not be made the object of an attack, threatened with violence for the purpose of spreading terror, or ordered to be displaced save for absolute security or military necessity. Objects indispensable to the survival of the civilian population are further protected from an attack, destruction, removal or rendering useless. Special protections are afforded to categories of vulnerable persons and objects, including women, children, the wounded and sick, persons deprived of their liberty, missing persons, hospitals, medical units and transports, humanitarian relief personnel and objects, and cultural property.

C. International Criminal Law

42. The Sudan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, which obligates it to prevent and punish genocide as a crime under international law. The Sudan has signed but not ratified the Rome Statute of the International Criminal Court. However, taking note of the report of the International Commission of Inquiry on violations of international humanitarian law and human rights law in Darfur (hereinafter “the 2005 Darfur COI”),⁶¹ the Security Council by Resolution 1593 (2005) referred the situation in Darfur since 1 July 2002 to the Prosecutor of the Court. The investigations by the Office of the Prosecutor into Darfur from 1 July 2002 onwards focus on allegations of genocide, crimes against humanity and war crimes.⁶² In August 2021, a new Memorandum of Understanding was signed between the Government of the Sudan and the Office of the Prosecutor of the Court. In July 2023, the Prosecutor announced a new public campaign for information on the situation in Darfur to be submitted to his Office.

43. The geographical scope of the mandate of the Fact-Finding Mission’s mandate covers the entire territory of the Sudan. It overlaps with but extends beyond the jurisdiction of the Prosecutor of the International Criminal Court by the Security Council, which is limited to Darfur.

D. Security Council Resolutions

44. Acting under Chapter VII, the United Nations Security Council by Resolution 1556 (2004) imposed an open-ended arms embargo in relation to Darfur and, among others, demanded that “the Government of the Sudan fulfil its commitments to disarm the Janjaweed militias”.⁶³ It decided that all States should take the necessary measures to prevent by their nationals or from their territory or under their jurisdiction the sale, supply or provision of arms and related materials of all types as well as technical training or assistance on the

⁶⁰ See OP-CRC-AC.

⁶¹ S/2005/60.

⁶² <https://www.icc-cpi.int/darfur>.

⁶³ S/RES/1556 (2004), para. 6.

provision, manufacture, maintenance or use of such items all non-governmental entities and individuals, including the Janjaweed, operating in Darfur.”⁶⁴ Security Council Resolution 1591 (2005) expanded this embargo to include all parties to the N'Djamena Ceasefire Agreement. The same Resolution imposed sanction measures, including the prevention of entry or transit through all States and the freezing of assets of all persons designated to impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the arms embargo or carry responsibility for offensive military overflights, and established a Panel of Experts to monitor implementation thereof.

45. In 2010, the Security Council further strengthened the arms embargo by Resolution 1945 (2010). It requires all States, including the Sudan, to notify the Committee in advance of any assistance and supplies into Darfur as well as to make the sale or supply of any arms and related material to the Sudan conditional on necessary end-user documentation to ascertain consistency with Security Council measures. In March 2023, shortly before the outbreak of hostilities, the Security Council by Resolution 2676 (2023) changed the embargo from open-ended to time-limited until 12 September 2024. By Resolution 2750 (2024), the Security Council extended the sanctions regime for one year until 12 September 2025. By Resolution 2750 (2024), the Security Council extended the sanctions regime for one year until 12 September 2025. These Security Council resolutions therefore remain applicable to the situation in Darfur today.

46. Following the outbreak of the conflict in mid-April 2023, the Security Council, by Resolution 2724 (2024), called on all parties to the conflict to immediately cease hostilities, seek a sustainable solution to the conflict through dialogue, and comply with their obligations under international humanitarian law including to protect civilians and civilian objects, and enable full, rapid, safe and unhindered humanitarian access, and their commitments under the Jeddah Declaration. Security Council Resolution 2730 (2024) on the need to promote and ensure respect for the rules and principles of international humanitarian law, demanded that all parties to the armed conflict comply with their obligations under international law, including to respect and protect humanitarian personnel and United Nations and associated personnel.

47. In June 2024, the Security Council, by Resolution 2736 (2024), demanded amongst others that the RSF halt its siege of El Fasher and that all parties to the conflict ensure the protection of civilians. It further demanded that all parties to the conflict allow civilians to move within and out of El Fasher to safer areas if they wish to do so. It also demanded again that all parties to the conflict comply with their obligations under international law and called on the parties to seek an immediate cessation of hostilities and called for the full implementation of the Jeddah Declaration and for the parties to facilitate the rapid, safe, unhindered and sustained passage of humanitarian relief for civilians in need.

E. Jeddah Declaration

48. Both parties to the conflict have made commitments that stem from binding obligations under international law. Co-facilitated by the United States of America and Saudi Arabia, talks between the SAF and RSF took place in Jeddah, Saudi Arabia, from 6 May 2023. On 11 May 2023, the SAF and RSF signed the Jeddah Declaration of Commitment to Protect the Civilians of the Sudan. Under this agreement, the parties committed to a wide range of measures including: to protect civilians; to respect international humanitarian law and international human rights law; to allow humanitarian operations to resume; to allow all civilians to voluntarily and safely leave areas of hostilities and any besieged areas, to respect and protect medical personnel and public installations and assets; to refrain from the recruitment of children and the use of children in hostilities; to refrain from engaging in forced disappearances and arbitrary detention of civilians; to refrain from any form of torture or other cruel, inhumane or degrading treatment, including sexual violence of all kinds; and to protect humanitarian personnel and to treat all persons deprived of their liberty in a humane manner and to provide principal humanitarian organizations with regular access to

⁶⁴ S/RES/1556 (2004), paras. 7 and 8.

persons in detention. They further committed themselves to taking all necessary measures to ensure that their respective forces abide by international humanitarian law and to scheduling expanded discussions to achieve a permanent cessation of hostilities. The Jeddah Declaration of Commitment was referenced three times in resolution A/HRC/RES/54/2, requesting the parties “to adhere fully” to the commitments they made. As A/HRC/57/23 and this CRP demonstrate, these commitments remain largely unimplemented.

F. National Law

49. The 2019 Transitional Constitutional Document (Constitutional Decree No. 38), amended in 2020 by the Juba Peace Agreement, sets out the bill of rights and freedoms. It guarantees human rights, including the right to life, dignity and personal safety, personal freedom and security, freedom of movement, equality before the law, fair trial, freedom of expression and of assembly and association, and to be free from torture or harsh, inhumane, or degrading treatment or punishment and slavery and forced labour. It further protects the rights of the child and the rights of women, including the equal right of men and women to enjoy all civil, political, social, cultural and economic rights. Article 42(2) specifically provides for direct implementation of international and regional human rights treaties to which the Sudan is a party.⁶⁵

50. Legislative changes have been introduced since the start of the conflict in April 2023. Constitutional Decree No. 7 of 2023 declared the RSF dissolved,⁶⁶ and they were classified a terrorist organization. The Rapid Support Forces Law of 2017, and its 2019 Amendment, was also declared as repealed. Further constitutional decrees relieved Lieutenant General Mohamed Hamdan Dagalo as Vice-President of the Transitional Sovereignty Council and replaced him with Malik Agar. Constitutional Decree No. 6 of 2024, concerning the Security and Defence Council and its committees, set up security committees under a High Technical Committee headed by the Chief of Staff comprising various state agencies dealing with intelligence, police, defence, foreign affairs, justice and public prosecution, to maintain peace and security and carry out any task as ordered. The General Intelligence Law (Amendment) 2024 further re-instated extensive investigate powers and immunity from prosecution to members of the General Intelligence Services.⁶⁷

51. Following the eruption of the current conflict, a state of emergency was declared in Khartoum State by Constitutional Decree No. 4 of 2024 from the date of signing, 22 April 2024. States of emergencies were also declared or renewed in other States, including in regions of Darfur, Kordofan, Gezira, Gedaref, Sennar, Blue Nile, Northern and Eastern Sudan.⁶⁸ Under states of emergency, according to the Emergency and Protection of Public Safety Act of 1997, law enforcement activities, including the power to arrest and detain, may be performed by joint security forces, including the SAF, its military intelligence and military police, and regular police forces.⁶⁹

52. The Fact-Finding Mission recalls that in time of public emergency that threatens the life of the nation, the Sudan being a State party to the ICCPR, may take measures derogating from certain obligations under Article 4 “to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination (...)” There are, however, limitations placed on the nature and duration of such derogations. Fundamental human rights that may not be derogated from include the right to life, prohibition of torture, prohibition of slavery, slave-trade and servitude and the right to be recognized as a person before the law. Contrary

⁶⁵ For further details and analysis of the national legal framework please see Chapter IX on Accountability.

⁶⁶ Progress Report on the work of the National Commission of Investigation on Human Rights Violations, War Crimes, and Violations committed by the Rebel Rapid Support Forces and other crimes, 14 June 2024, Ref. M.183.24, available at <https://hrmeetings.ohchr.org/HRCSessions/RegularSessions/56/Pages/Communications%20from%20government.aspx>

⁶⁷ See further below para. 307.

⁶⁸ A/HRC/5/29, para. 17.

⁶⁹ A/HRC/50/22, para. 14.

to the obligations set out in Article 4 of the ICCPR, the Sudan has not notified the United Nations Secretary-General of the action it has taken.⁷⁰ In this case, the entire ICCPR continues to apply.

V. The Present Conflict

A. Timeline of Key Political and Military Developments

53. In mid-April 2023, hostilities broke out between the SAF and RSF, and their respective allied militias, in Khartoum and quickly spread to other parts of the Sudan. Tensions between the two warring parties preceded the conflict and had been rising since the removal of former President Omar Al Bashir in 2019, following months of massive popular protests that started in December 2018, triggered by the rising cost of living and a rapidly declining economy.⁷¹ As protests continued, on 11 April 2019, the Sudan military removed President Al Bashir from his position, dissolved the government and parliament and declared a state of emergency. On 14 April 2019, Lieutenant General Abdel Fattah Al Burhan took charge of the military-established Transitional Sovereignty Council with Lieutenant General Mohamed Hamdan Dagalo, also known as Hemedti, as his deputy. The civilian uprising continued.⁷²

54. On 17 August 2019, the Sudan adopted a transitional constitution, under which the country would be jointly governed by a civilian-military coalition for a transitional period of 39 months. The military agreed to have the protestors nominate a civilian Prime Minister and establish a civilian-run Government. This led to the establishment of a Transitional Government led by a civilian, Prime Minister Abdalla Hamdok, who was sworn in on 21 August 2019. Attempts at sustaining the transitional period faltered on 25 October 2021, when the military seized power and asserted military rule, resulting in the dissolution of the Transitional Government. This led to a strong condemnation by the Peace and Security Council of the African Union and immediate suspension, effective as of 26 October 2021, of the participation of the Republic of the Sudan in all African Union activities until the effective restoration of the civilian-led Transitional Authority.⁷³ One month later, on 21 November 2021, Al Burhan reinstated Prime Minister Abdalla Hamdok; however, he resigned two months after his reinstatement, citing fragmentation between the civilian and military components of the transition. Widespread protests persisted as political opponents, trade unions, women's associations and businesses, continued rejecting the military-security establishment and demanded complete civilian control over the transition.⁷⁴

55. On 5 December 2022, a Political Framework Agreement was signed,⁷⁵ following negotiations facilitated by a Trilateral Mechanism (United Nations, African Union and IGAD). The Political Framework Agreement contained comprehensive provisions on establishing a transitional civilian government and outlined, among others, security and military reforms that would lead to one professional national army.⁷⁶ However, General Al

⁷⁰ <https://treaties.un.org/Pages/CNs.aspx?cnTab=tab2&clang=en>

⁷¹ See International Crisis Group, *Safeguarding Sudan's Revolution, Africa Report No. 281*, 2019, available at https://www.crisisgroup.org/sites/default/files/281-safeguarding-sudans-revolution_0.pdf.

⁷² See <https://merip.org/2024/04/the-struggle-for-sudan/>.

⁷³ Communiqué of the 1041st meeting of the Peace and Security Council of the African Union held on 26 October 2021 on the Situation in Sudan, available at: Communiqué of the 1041st meeting of the Peace and Security Council of the African Union held on 26 October 2021 on the Situation in Sudan-African Union - Peace and Security Department (peaceau.org).

⁷⁴ See <https://merip.org/2024/04/the-struggle-for-sudan/>.

⁷⁵ Signed by the Sudanese Army, Rapid Support Forces and Forces of Freedom and Change (a coalition of civilian political parties).

⁷⁶ The PFA contained comprehensive provisions on establishing a transition civilian government; accountability and transitional justice; security and military reform; implementation of the Juba Peace Agreement; dismantling of the structures of the previous regime and securing peace and stability in East Sudan.

Burhan and General Mohamed Hamdan Dagalo, disagreed on the timeline of the proposed integration of the RSF into the country's armed forces.⁷⁷

56. In the period immediately preceding the outbreak of the conflict, tensions kept simmering between the SAF and RSF due to the ongoing power struggle between General Al Burhan and General Mohamed Hamdan Dagalo. Armed confrontations between the SAF and RSF eventually erupted in mid-April in the country's capital, Khartoum, and quickly spread to other regions across the country. RSF forces started to mobilize on 13 April 2023, which led to a series of clashes with the SAF and the capturing by the RSF of Khartoum International Airport, the Presidential Palace and several military bases on 15 April 2023. The fighting quickly spread to the suburbs of Khartoum and neighbouring city Omdurman, in particular the bridge crossing the White Nile. Heavy fighting continued in Khartoum, Bahri and Omdurman during the first weeks of the conflict.⁷⁸

57. The fighting soon expanded to Darfur and Kordofan regions, as the RSF sought to capture and take control of various parts of the country. From 24 April 2023, the RSF and allied militias launched attacks in El Geneina, the capital of West Darfur State, and eventually exerted full control over the city on 15 June 2023, following the killing of the Governor of West Darfur. In October, it captured Nyala in South Darfur and the headquarters of SAF's 16th Division as well as Zalingei in Central Darfur and the headquarters of SAF's 21st Division. In early November 2023, the RSF captured the headquarters of SAF's 15th Division in Ardamata, at the outskirts of El Geneina. With the withdrawal of the SAF from the headquarters of its 20th Division in El Daein, East Darfur, in late November, the RSF had taken control of four out of five Darfur States, leaving only parts of North Darfur, including the capital El Fasher, in the hands of the SAF and aligned armed groups. The RSF then expanded towards Wad Madani, the capital of Gezira State, taking control of the city on 18 December 2023.

58. In the Kordofan region, violence escalated from January 2024 with other armed actors joining the conflict as the Sudan People's Liberation Movement-North faction of Abdelaziz al Hilu (SPLM-N/AI-Hilu) clashed with the SAF in South Kordofan. In June 2024, the RSF advanced towards Sennar State, engaging in armed confrontations with the SAF in Sinja town, which triggered the displacement of a significant number of civilians.⁷⁹

59. By the time of this report, 14 out of the Sudan's 18 states were affected by the hostilities on the ground, with the RSF controlling a large part of the country, including Khartoum city, though the SAF recently – on 26 September 2024 - launched an offensive against the RSF in Khartoum and Bahri in an attempt to regain control of the city. Clashes are ongoing with serious consequences for the civilian population residing in this area.

60. Seven states are experiencing sporadic attacks through airstrikes or shelling: White Nile, East Darfur, South Darfur, Central Darfur, West Darfur, Gedaref, and Blue Nile. Seven states are currently experiencing ongoing hostilities: Khartoum, Gezira, Sennar, North Kordofan, South Kordofan, West Kordofan and North Darfur.⁸⁰

61. North Darfur, in particular, remains a hotspot for fighting, with the RSF's continuing attempts to capture the capital, El Fasher. The fighting for control of the city has intensified in September 2024, leading to severe civilian casualties. As the clashes continue, the humanitarian situation in El Fasher also continues to deteriorate. The United Nations and humanitarian organizations have expressed alarm over the rising civilian toll, worsening food shortages, and lack of medical care.⁸¹ Famine conditions have already been declared in surrounding displacement camps, and the ongoing conflict makes delivering aid nearly

⁷⁷ FFMS-D-001739. See also <https://merip.org/2024/04/the-struggle-for-sudan/>.

⁷⁸ <https://press.un.org/en/2023/sc15265.doc.htm>.

⁷⁹ See e.g., OCHA Sudan: Conflict in Sinja, Sennar State, Flash Update No. 01 (1 July 2024), available at <https://reports.unocha.org/en/country/sudan/card/3CJ4mNWIOe/>.

⁸⁰ April 2024 | One Year of War in Sudan (acleddata.com); <https://www.polgeonow.com/2024/06/sudan-war-map-2024-june-darfur-joint-force-rebels.html>.

⁸¹ See <https://www.ohchr.org/en/press-releases/2024/09/sudan-turk-sounds-alarm-over-hostilities-el-fasher-warns-serious-human> (26 September 2024); <https://news.un.org/en/story/2024/09/1154511> (18 September 2024).

impossible. Despite international calls for a ceasefire, both the SAF and RSF remain locked in a bitter struggle, with no sign of de-escalation.

62. These ongoing hostilities have a major impact on the civilian population throughout the Sudan, a large percentage of which is on the run, either from the conflict, or from the increasing hunger due to food deprivation all over the country.

B. International and Regional Political Initiatives

63. Multiple initiatives have been pursued at the regional and international levels to end the conflict in the Sudan. On 16 April 2023, immediately after the outbreak of the conflict, the African Union Peace and Security Council issued a communiqué, in which it condemned the ongoing confrontations; called for an immediate ceasefire, the protection of civilians; and provision of humanitarian support to civilians caught up in the conflict.⁸² It also requested the Chairperson of the African Union Commission to engage with the parties to the conflict in order to facilitate dialogue and peaceful resolution, and to continue consultations with the United Nations and the IGAD towards a consolidated response by the international community within the framework of the African Union, IGAD and United Nations Trilateral Mechanism on the Sudan's political transition. On 27 April 2023, the African Union Peace and Security Council adopted the African Union Roadmap for the Resolution of the Conflict in the Sudan, containing six elements: i) the establishment of a coordination mechanism to ensure the harmonization of regional and global efforts; ii) an immediate, permanent, inclusive and comprehensive cessation of hostilities; iii) effective humanitarian response; iv) protection of civilians and civil infrastructure; v) Strategic role of neighboring states and the region; and vi) resumption of a credible and inclusive political transition process towards a democratic civilian-led government.⁸³

64. The African Union Peace and Security Council also underscored the importance of a single, inclusive and consolidated peace process for the Sudan, coordinated under the joint auspices of the African Union, IGAD, League of Arab States, United Nations, and like-minded partners, noting that a multiplicity of mediation initiatives would not serve the interests of the Sudanese people. In this regard, it endorsed the Expanded Mechanism on the Sudan and its Core Group as an all-inclusive platform for providing coordinated engagement within the international community, to foster political consensus and common global support for the Sudan. The core group of the Expanded Mechanism has convened a series of meetings since its establishment to coordinate the implementation of the African Union Roadmap on Resolution of the conflict in the Sudan.

65. A separate process towards resolution of the conflict in the Sudan was initiated by the IGAD, which resulted in the adoption of a Roadmap on 12 June 2023, whose implementation is spearheaded by the IGAD Quartet Group of countries, under the chairmanship of the President of Kenya. On 10 July 2023, the Quartet expressed concerns about the escalation of the conflict; the repeated violations of the various ceasefire agreements; the spread of violence outside of Khartoum to the other parts of the Sudan; and the degenerating humanitarian situation. The Quartet further condemned the ongoing human rights violations and abuses and committed to work closely with the international community to put in place a robust monitoring and accountability mechanism that would be instrumental in bringing perpetrators to justice. The meeting resolved to request the East Africa Standby Force (EASF) summit to convene in order to consider the possible deployment of the EASF to protect civilians and guarantee humanitarian access.

66. On 6 September 2023, the Quartet cautioned that the conflict in the Sudan was becoming increasingly complex and risked taking on a regional dimension with the entry and participation of other armed movements, in addition to the rapid proliferation of small arms and light weapons posing severe security, humanitarian, and political risks for the Sudan and

⁸² PSC/PR/COMM.1149 (2023), adopted at the 1149th meeting of the African Union Peace and Security Council, 16 April 2023.

⁸³ PSC/HoSG/COMM.1156 (2023), adopted at the 1156th meeting of the African Union Peace and Security Council, 27 May 2023.

the broader region. The Quartet emphasized the further deterioration of the humanitarian situation and called upon the international community, neighbouring countries and friends of the Republic of the Sudan to scale up and sustain support for humanitarian action. The Quartet suggested consolidation of all peace initiatives, calling upon the international actors to support a single, all-inclusive IGAD-African Union led platform.

67. On 16 November 2023, the Government of Sudan requested the United Nations Secretary-General “to terminate the United Nations Integrated Transition Assistance Mission in the Sudan (UNITAMS) with immediate effect.”⁸⁴ On 1 December 2023, the Security Council by virtue of resolution 2715 (2023) took note of Sudan’s letter and requested UNITAMS to liquidate its presence and “immediately start on 4 December 2023 the cessation of its operations and the process of the transfer of its tasks, where appropriate and to the extent feasible, to UN agencies, funds and programmes.”

68. On 21 November 2023, the United Nations Secretary-General appointed as his Personal Envoy for the Sudan the veteran diplomat, Mr. Ramtane Lamamra, former Deputy Prime Minister and Minister of Foreign Affairs of Algeria, and former African Union Commissioner for Peace and Security.⁸⁵ Security Council Resolution 2724 (2024) welcomed the appointment of Mr. Lamamra and mandated him to use his good offices with the parties in Sudan and neighbouring States, complementing regional peace efforts, including those of African Union (AU) and the east African regional bloc, Intergovernmental Authority on Development (IGAD).

69. From 11 to 19 July 2024, the Personal Envoy held proximity talks with representatives of the parties to the conflict on measures to ensure the distribution of humanitarian assistance to all the Sudanese population in need and options to ensure the protection of civilians across the Sudan. Upon the conclusion of these talks on 19 July 2024, the Envoy considered that the Geneva discussions were “an encouraging initial step in a longer and complex process.”⁸⁶ He welcomed the commitments announced that day by one of the two parties to enhance humanitarian assistance and the protection of civilians. He also stated that he intends to remain in close contact with the leadership of the two parties, to follow up on the implementation of commitments and to engage them on critical issues.

70. As mentioned earlier, the United States of America and Saudi Arabia also co-facilitated talks between the SAF and RSF in Jeddah, Saudi Arabia, resulting in the SAF and RSF signing the Jeddah Declaration of Commitment to Protect the Civilians of the Sudan on 11 May 2023. Another round of talks took place in Manama, Bahrain, in January 2024. A new round of talks took place in Geneva, Switzerland, in August 2024, with the participation of the United Nations and the AU, leading to an agreement to open the border for humanitarian aid in Adré, Chad.⁸⁷

C. United Nations and African Union Peacekeeping Initiatives in the Sudan

71. For the past 20 years, the Sudan has had regional or international peace-keeping presence, mandated to protect civilians. In July 2004, following the violent conflict that broke out in Darfur in 2003 between the Government of Sudan and militias, and other armed groups, leading to widespread atrocities and mass displacement of civilians, the African Union decided to deploy the African Union Mission in Sudan (AMIS). AMIS was initially deployed to Darfur as an observer mission, following the signing of the N’Djamena Humanitarian Ceasefire Agreement between the Government of Sudan and two rebel movements, the Sudan People’s Liberation Movement/Army (SPLM/ A) and the Justice and Equality Movement (JEM). In October 2004, its mandate was extended to include the protection of civilians whom

⁸⁴ S/2023/884

⁸⁵ <https://press.un.org/en/2023/sga2242.doc.htm>.

⁸⁶ <https://www.ungeneva.org/en/news-media/press-release/2024/07/statement-personal-envoy-secretary-general-sudan-ramtane-lamamra>.

⁸⁷ <https://www.unocha.org/publications/report/sudan/sudan-adre-border-crossing-situation-update-flash-update-no-01-27august2024#:~:text=The%20re%2Dopening%20of%20the%20Adre%20border%20crossing%20announced,to%20areas%20in%20acute%20need>.

it encounters under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility of the Government of Sudan.⁸⁸

72. In 2005, having determined that the situation that was prevailing in the Sudan continued to constitute a threat to international peace and security, the United Nations Security Council, decided to establish the United Nations Mission in the Sudan (UNMIS).⁸⁹ UNMIS was mandated to support implementation of the Comprehensive Peace Agreement signed on 9 January 2005 between the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A). UNMIS was also mandated to facilitate the voluntary return of refugees and displaced persons; provide demining assistance; and contribute towards international efforts to protect and promote human rights in the Sudan. Significantly, UNMIS was further authorized, "without prejudice to the responsibility of the Government of the Sudan, to protect civilians under imminent threat of physical violence."⁹⁰ The mandate of UNMIS ended on 9 July 2011, following the completion of the interim period agreed upon by the Government of Sudan and SPLM/A during the signing of the CPA.

73. In 2007, a United Nations-African Union Hybrid Operation (UNAMID) was deployed in Darfur.⁹¹ UNAMID, which took over from AMIS, was mandated to facilitate the delivery of humanitarian assistance and the safety and security of humanitarian actors; the protection of civilians, without prejudice to the responsibility of the Government of the Sudan; mediation between the Government of the Sudan and the non-signatory armed groups on the basis of the Doha Document for Peace in Darfur; and support to the mediation of community conflict, including through measures to address its root causes, in conjunction with the United Nations country team. UNAMID's mandate ended on 31 December 2020⁹² following consideration of the measures taken by the Government of Sudan to address the conflict in Darfur, as well as the Government of Sudan's National Plan for Civilian Protection⁹³ and its expressed commitment to assume full responsibility for the protection of its civilian citizens, to comply strictly with all international standards for the protection of civilians, including proactive monitoring and anticipation, increased army and judicial police deployment, and community protection, and to facilitate humanitarian assistance, including through full and unhindered humanitarian access and ensuring the safety and security of humanitarian personnel.⁹⁴

74. In June 2020, at the request of the Government of Sudan, the United Nations Security Council decided to establish UNITAMS, a special political mission mandated to assist the political transition, progress towards democratic governance, in the protection and promotion of human rights, and sustainable peace; support peace processes and implementation of future peace agreements; assist peacebuilding, civilian protection, and rule of law, and to support the mobilization of economic and development assistance and coordination of humanitarian assistance.⁹⁵ However, as indicated earlier, on 16 November 2023, the government of Sudan requested that the United Nations immediately terminate the UNITAMS mission citing fundamental change of the circumstances that had led to its establishment.⁹⁶ Consequently, on 1 December, the Security Council decided to terminate the mandate of the UNITAMS.⁹⁷ UNITAMS officially exited Sudan on 29 February 2024. Since then, there has been no regional or international presence in the Sudan responsible for protecting civilians in Sudan, leaving a significant gap in the protection of civilians, which has been further exacerbated by the current conflict.

⁸⁸ PSC/PR/Comm.(XVII), adopted at the 17th meeting of the African Union Peace and Security Council, 20 October 2004.

⁸⁹ S/RES/1590 (2005).

⁹⁰ S/RES/1590 (2005), para. 16

⁹¹ S/RES/1769 (2007).

⁹² S/RES/2559 (2020).

⁹³ S/2020/429.

⁹⁴ S/2020/429.

⁹⁵ S/RES/ 2524 (2020).

⁹⁶ S/2023/884.

⁹⁷ S/RES/2715(2023).

D. Key actors to the conflict

75. The two main parties to the armed conflict are the SAF and the RSF. Both sides rely on regular military and paramilitary forces, auxiliary militias, allied militias, and extensive intelligence and security agencies.

1. Sudanese Armed Forces Alliance

76. The SAF alliance is controlled by a small group of senior officers, and SAF Commander-in-Chief, Lieutenant General Abdel Fattah Burhan. General Al Burhan sets the political and military strategy, and his most senior military officers control the Transitional Sovereignty Council, the SAF, national ministries and state governments, leaving the government administration firmly in the hands of the military. In addition to the General Intelligence Service, the SAF has its own Military Intelligence that reports directly to General Al Burhan. After the 2021 military coup, and exacerbated by the armed conflict, the SAF Military Intelligence and the General Intelligence Services have gained in influence. They dispose of largely unchecked powers to pursue anyone seen as supporting the RSF or opposing SAF military rule.⁹⁸

77. The SAF has an Air Force composed of planes and supplemented by newly acquired armed drones. SAF's regular ground forces are organized in military regions that are home to corps and divisions, which are further divided into brigades and their garrisons. Even at the outset of the conflict, SAF corps and divisions had an actual troop strength far below the size of those of most other conventional armies. This is due to several factors. Under former President Al Bashir, auxiliary forces (including the RSF) were prioritized as a counterbalance to the SAF. South Sudanese SAF soldiers left the army for South Sudan following its independence in 2011. During the current conflict, the SAF heavily relied on its Air Force, and sought to strengthen its ground forces, which prior to the conflict included the RSF, through a massive mobilization drive, the reactivation of paramilitary forces controlled by the intelligence services and the establishment of new armed groups.⁹⁹

Military Intelligence and General Intelligence Service

78. Military intelligence forms part of the SAF, although it seems to operate with considerable autonomy from the general military chain of command. Military Intelligence sections are embedded in SAF's divisions.¹⁰⁰

79. During the democratic transition, the General Intelligence Service was formed out of the National Intelligence and Security Service (NISS) which was established under former President Al Bashir. At the time, its functions, resources, personnel strength and legal powers were significantly reduced in an attempt to curb its human rights violations and bring it under civilian control. However, some officials from the Al Bashir-era have remained in influential positions.¹⁰¹

80. Since the outbreak of the armed conflict, GIS has seen a resurgence of its capacity, influence and powers. Based on a legal amendment from May 2024,¹⁰² it regained legal powers of interrogation, search, detention and asset seizure, along with immunities shielding its personnel from criminal or civil prosecution without approval of its director.¹⁰³

Central Reserve Forces

81. Although less well-trained and armed, the Central Reserve Forces (CRF) are another large paramilitary force. While the CRF are formally under the supervision of the Ministry of Interior, it is widely considered that they are effectively controlled by the GIS. In the early

⁹⁸ FFMS-D-001692; FFMS-D-001418; FFMS-D-000054; FFMS-D-001346; FFMS-D-001283; FFMS-D-001668.

⁹⁹ Ibid.

¹⁰⁰ Ibid. See also: FFMS-D-001416; FFMS-D-001414; FFMS-D-000042; FFMS-D-001286; FFMS-D-002057.

¹⁰¹ FFMS-D-001416; FFMS-D-001418; FFMS-D-000054; FFMS-D-001414; FFMS-D-001351; FFMS-D-001283.

General Intelligence Service Law (Amendment) 2024. See also Constitutional Decree No. 3 of 2024, through which the draft law of the General Intelligence Service for the year 2010, amended in 2024, was approved. Publicly available at: <https://www.sudanakhbar.com/1518673>.

¹⁰³ Ibid.

phases of the conflict, the CRF took heavy losses against the more heavily armed RSF forces, especially in Khartoum where RSF overran the CRF headquarters in late June 2023. As a result, CRF has seen a less pronounced role in the ongoing armed conflict compared to previous conflicts.¹⁰⁴

Militarized state-level administrations

82. State administrations, including the governors and state security committees chaired by them, are increasingly militarized and have been integrated into the efforts to mobilize new forces, neutralize RSF supporters and suppress any opposition to SAF military rule. A number of State Governors are former SAF officers and regularly appear in military uniform. State governors continue to chair state security committees, which existed across the country even before the conflict. These committees are composed of the governor, the state director of the GIS, the director of state police, SAF senior commanders in the state, reportedly including senior Military Intelligence officers. The state security committees also include some senior civilian state officials whose functions may have a link to security matters. The committees coordinate the formulation and implementation of key security policies at state level.¹⁰⁵

Popular Resistance and Mobilization

83. The Sudan has a long history of mobilizing and arming civilians to fight as auxiliary forces that either support or replace the SAF in the fight against insurgencies in its periphery regions. Following this historic pattern, the SAF leadership launched a major effort to mobilize recruits.¹⁰⁶

84. Under a “popular resistance” campaign civilians are armed, receive basic military training and are organized into new units. So far, these new units seem to have been mostly deployed to defend SAF-held areas. In May 2024, SAF General Command issued *The Regulations of Mobilization and Popular Resistance*.¹⁰⁷ At the national level, the SAF leadership established a National Committee for Mobilization and Popular Resistance to coordinate the mobilization into the SAF and the recruiting, arming and financing of the popular resistance. Each state also has its own committees to lead the popular resistance mobilization drive. The composition of these popular resistance committees varies and often includes current or former senior military and security officers, local officials, tribal and business leaders and also political figures, including a number associated with the Sudanese Islamist Movement and the former government of President Al Bashir.¹⁰⁸

85. A minority of the new SAF-aligned armed groups espouse an Islamist ideology. These include notably the Baraa bin Malik Battalion commanded by Al Misbah Abu Zaid Talha. This armed group has received weapons and training from the SAF, although it has reportedly also its own source of funding linked to Islamist backers. Its existence is well documented – not only because it has engaged in many key battles and taken heavy casualties, but also since it extensively publicizes its exploits on social media. There are reportedly other less visible Islamist-leaning SAF-aligned armed groups that are at times also referred to as the “shadow battalions” in the Sudanese popular discourse. Overall, however, Islamist armed groups continue to be only a minority of SAF-aligned armed groups.¹⁰⁹

Darfur Joint Protection Force and other SAF-Allied Armed Groups

86. In late April 2023, several armed groups, mainly composed of fighters from non-Arab Darfuri ethnic groups, established the Darfur Joint Protection Force, in response to the threat of the RSF and allied ethnic Arab militias taking control of the Darfur region at the expense of their ethnic base. The Joint Force includes the faction of the Sudan Liberation Movement

¹⁰⁴ FFMS-D-001692; FFMS-D-001418; FFMS-D-001416.

¹⁰⁵ FFMS-D-002057; FFMS-D-001413; FFMS-D-000054; FFMS-D-001271; FFMS-D-001286.

¹⁰⁶ FFMS-D-001413; FFMS-D-00054.

¹⁰⁷ FFMS-D-002563.

¹⁰⁸ FFMS-D-001529; FFMS-D-001416, FFMS-D-001414, FFMS-D-001413, FFMS-D-000057, FFMS-D-002057, FFMS-D-001529, FFMS-D-001527, FFMS-D-001529, FFMS-D-001530, FFMS-D-001661.

¹⁰⁹ FFMS-D-001418; FFMS-D-001692, FFMS-D-001416, FFMS-D-000054, FFMS-D-001283, FFMS-D-002057.

headed by Minni Minnawi (SLM/Minnawi), and the Justice and Equality Movement (JEM) of Jibril Ibrahim. In North Darfur, the Joint Force is headed by Lieutenant General Juma Hagar, SLM-Minnawi's senior operational commander in Darfur.¹¹⁰

87. While the Joint Protection Force members initially sought to maintain a neutral position in the conflict between the RSF and SAF, SLM/Minnawi and JEM announced on 16 November 2023 an end to their neutrality and actively aligned with the SAF. Other groups did not follow and announced the establishment of a separate coordination effort. On the ground, some cooperation seems to have reportedly continued in light of the common threat of the RSF advancing into North Darfur, particularly its siege of El Fasher.¹¹¹

88. Groups led by Mustafa Tambour (SLM/Tambour), and the late Khamis Abakar (SLM/Sudanese Alliance), the Sudan People's Liberation Movement-North under Malik Agar (SPLM-N/Agar) and some groups from eastern Sudan have also aligned their forces with the SAF. Among others, they provided fighters for mobile forces operating jointly with SAF and GIS forces in the southeastern Sudanese states of Sennar, Gedaref and Gezira.¹¹²

89. SPLM-N General Malik Agar Eyre joined the Transitional Sovereignty Council with the 2020 Juba Peace Agreement and, after the outbreak of conflict, replaced RSF leader, General Mohamed Hamdan Dagalo as its deputy chair. While General Agar appears to wield little influence on SAF's military strategy and operations, fighters of the SPLM-North/Agar fight in and along SAF's 4th Infantry Division.¹¹³

90. The SAF, often working through its Military Intelligence service, has also pursued alliances with other armed groups and militia leaders on the basis of shared political and military objectives or in exchange for payment, weapons and officer positions within the SAF. These include, for example, the JEM splinter faction headed by Abdelkarim Bakhit "Dabajo", the Sudan Awakening Revolutionary Council (SARF) linked to former RSF ally Musa Hilal, and SLM splinter factions headed by Sadiq al-Fuka and Ibrahim Abdullah Al-Toum "Bahloul".¹¹⁴

2. Rapid Support Forces Alliance

91. The RSF is led by First Commander Lieutenant-General Mohamed Hamdan Dagalo. His older brother, Lieutenant-General Abdelrahim Hamdan Dagalo, is the second in command. The RSF has operated as a highly mobile ground fighting force that combines regular RSF units, its own intelligence service and newly recruited RSF-aligned militias into an alliance under the overall control of Lieutenant-General Mohamed Hamdan Dagalo.¹¹⁵

92. The RSF has its roots in the longstanding practice of the Sudan's governments of arming civilians,¹¹⁶ especially of Arab ethnicity, and organizing them into auxiliary militias motivated by the prospect of loot and a measure of ideology. In the early 2000s, the Government of the Sudan armed civilians to counter an insurgency in Darfur. Arab nomadic tribes without a traditional homeland and wishing to settle, given the encroaching desertification, responded to the call and the Government organized them into militias that became known as "*Janjaweed*."¹¹⁷ In 2005, the *Janjaweed* were found to have committed, in

¹¹⁰ FFMS-D-001713; FFMS-D-001416.

¹¹¹ https://sudantransparency.org/wp-content/uploads/2024/08/SCM_15.pdf. See also: Power Relations in Sudan after the Fall of Bashir, From Revolution to War, SWP Research Paper 2024/RP 05, 10.05.2024, 34 Seiten doi:10.18449/2024RP05, <https://www.swp-berlin.org/10.18449/2024RP05/#hd-d29077e966>.

¹¹² FFMS-D-002035; FFMS-D-002057, FFMS-D-002034, FFMS-D-002021, See also: https://sudantransparency.org/wp-content/uploads/2024/08/SCM_15.pdf.

¹¹³ FFMS-D-001416, FFMS-D-001283.

¹¹⁴ FFMS-D-001713, See also: Power Relations in Sudan after the Fall of Bashir, From Revolution to War, SWP Research Paper 2024/RP 05, 10.05.2024, 34 Seiten doi:10.18449/2024RP05, <https://www.swp-berlin.org/10.18449/2024RP05/#hd-d29077e966>.

¹¹⁵ FFMS-D-001414, FFMS-D-001353.

¹¹⁶ The Popular Defence Forces Act of 1989 formed the legal basis for this practice. Publicly available at the Redress website: <chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://redress.org/wp-content/uploads/2021/09/Popular-Defence-Forces-Act-1989-ENGLISH.pdf>.

¹¹⁷ S /2005/60, para. 69.

concert with the Government, serious violations of human rights and international humanitarian law amounting to international crimes.¹¹⁸

93. From 2013, facing a renewed insurgency, the Government re-organized some of the *Janjaweed* into what became known as the RSF. Lieutenant-General Mohamed Hamdan Dagalo was appointed as its commander of operations. The RSF was eventually formally recognized under the Rapid Support Forces Act of 2017. Up to the current conflict, the Sudanese Government provided the RSF with extensive resources and support. The RSF increased its political influence and military capacity through deployments in Darfur, other parts of the Sudan and Yemen. From 2015, the RSF contributed troops to fight in Yemen, further increasing the RSF's combat experience, organizational prowess and ambition of its leadership. The RSF was also repeatedly deployed in Darfur and other parts of the Sudan to control unrest (reportedly committing violations in the process), which further augmented its national clout.¹¹⁹ The withdrawal of the United Nations-African Union Operation in Darfur (UNAMID) peacekeepers from Darfur at the end of 2020 also created a security vacuum that allowed the RSF to increase its power, especially in Darfur.¹²⁰

94. From the outset of the conflict, the RSF has been equipped with 4x4 light vehicles, many of which converted into "technical" combat vehicles with mounted machine guns, anti-aircraft guns or multiple launch rocket systems. It also disposed of rocket-propelled grenades and some mortars as part of its weaponry. The RSF also seems to have built up large stocks of small arms and light weapons that it could rapidly distribute among newly recruited auxiliary Arab militia. While these militias have traditionally often used a combination of 4x4 vehicles (including RSF vehicles), horses and camels to move around, the current conflict has seen the militia often operate as armed two- or three-person teams on motorcycles that are deployed alongside 4x4 "technical" combat vehicles. This evolution has allowed RSF regular units and their aligned militias to move jointly and rapidly across the battlefield, outflank slower SAF forces and conduct rapid attacks on SAF garrisons and looting raids on towns, villages and other civilian areas.¹²¹

95. From its various deployments in the Sudan and Yemen, the RSF also managed to retain a number of armoured personnel carriers, and reportedly also a very small number of tanks. The RSF gained a significant number of additional armoured vehicles and heavy weapons from SAF's stock when it captured several SAF division headquarters and other SAF garrisons from hastily withdrawing SAF forces. A number of victims and witnesses also reported to the Fact-Finding Mission that the RSF has prioritized the looting of larger 4x4 civilian vehicles when pillaging civilian areas, with the apparent intent of repurposing them for military purposes.¹²²

96. The RSF has reportedly established an RSF Supply Office at the central command level to manage its overall weapons and equipment procurement and distribution efforts.¹²³

RSF Intelligence

97. The RSF has its own intelligence service. It was built with the help of the SAF and its Military Intelligence service, which provided resources, training and seconded officers. Before the conflict, a seconded SAF officer headed the RSF intelligence service. He renounced his position and returned to the SAF immediately upon the outbreak of the conflict.¹²⁴

98. RSF intelligence is embedded in the RSF combat units, but also has its own offices. It disposes of centralized specialized units, including a signals intelligence unit with

¹¹⁸ Ibid, paras. 248-413.

¹¹⁹ FFMS-D-001414, FFMS-D-001353, See also: Power Relations in Sudan after the Fall of Bashir, From Revolution to War, SWP Research Paper 2024/RP 05, 10.05.2024, 34 Seiten doi:10.18449/2024RP05, <https://www.swp-berlin.org/10.18449/2024RP05/#hd-d29077e966>.

¹²⁰ See, inter alia, Human Rights Watch, The Masalit Will Not Come Home: Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan, May 2024.

¹²¹ S/2023/94, paras. 31, 32, 35.

¹²² FFMS-D-002057, FFMS-D-001418, FFMS-D-001346.

¹²³ FFMS-D-001416.

¹²⁴ FFMS-D-001692; FFMS-D-001416; FFMS-D-000054; FFMS-D-002057; FFMS-D-001553; FFMS-D-001352.

specialized equipment, a counterintelligence unit and a unit to monitor civilians and civil society. RSF intelligence seems to direct raids that target civilians in RSF-held areas. RSF intelligence officers are also present in RSF detention and interrogation centres. These are established in various locations, including police stations and prisons in RSF-captured areas, former SAF installations and re-purposed civilian buildings.¹²⁵

RSF civilian governance structures

99. As the conflict progressed, RSF has augmented its efforts to build civilian governance structures. Operating under the control of the RSF senior leadership and state-level military commanders, they are meant to stabilize RSF control and governance of areas under its control but remain fledgling institutions.¹²⁶

RSF recruitment

100. At the outset of the conflict, RSF consisted of a standing core of troops, supplemented by a large number of additional trained RSF reserves. Since then, it has suffered large numbers of casualties but also continuously recruited large numbers of new fighters from its heartlands in Darfur, other areas captured from the SAF and also from other Sahel states. Many of the newly recruited forces have not become directly part of the RSF itself but serve in auxiliary militias that remain under the overall command and control of General Mohamed Hamdan Dagalo and the RSF senior leadership.¹²⁷

101. Owing to its historical development, the RSF officers corps has been traditionally dominated by Arab ethnic groups from Darfur, especially the Mahariya Rizeigat to which the Dagalo family belongs. In more recent years, the RSF has sought to expand and diversify its corps of officers and allied militia commanders by bringing in former military officers and militia leaders from other parts of the Sudan's periphery, including some who are not ethnic Arabs.¹²⁸

102. From the early stages of the conflict, and reportedly also in anticipation of it,¹²⁹ RSF senior leaders, directly and through intermediaries, recruited new forces from neighbouring states and the Sudan's periphery in exchange for money, weapons and other incentives, including the prospect of loot. In West Darfur, for instance, RSF units fought together with ethnic Arab militias that were recruited through Arab ethnic leaders of the West Darfur Native Administration.¹³⁰

103. Whether assembled into new RSF militia units or as RSF-aligned militias, the newly recruited men (and also teenage boys) typically fight alongside their ethnic kin and serve under officers from their own ethnic subgroup or clan. In particular in Darfur, this has furthered the intertwining of preexisting localized inter-ethnic violent conflicts with the armed conflict between the RSF and SAF.¹³¹

104. The multiple streams of recruitment, and its often-uncontrolled nature due to the use of intermediaries, have resulted in a situation where the RSF leadership's command and control over its new commanders and their fighters may compete with tribal and other preexisting loyalties. Furthermore, the broader political and military objectives of the RSF leadership are not always aligned with the looting interests and personal ambitions of the new field commanders and their fighters. Both factors create command and control challenges that the RSF has struggled to tackle.¹³²

¹²⁵ FFMS-D-001413; FFMS-D-001320; FFMS-D-000054; FFMS-D-000056; FFMS-D-001285; FFMS-D-002057.

¹²⁶ FFMS-D-001413; FFMS-D-002033.

¹²⁷ FFMS-D-001413, FFMS-D-001398.

¹²⁸ FFMS-D-002054, FFMS-D-002055.

¹²⁹ S/2023/93, para. 40.

¹³⁰ Ibid.

¹³¹ FFMS-D-001414, FFMS-D-001422, FFMS-D-000054, FFMS-D-001272, FFMS-D-002055.

¹³² FFMS-D-001416). See also: S/2023/93, paras. 33, 34; [acleddata.com/2024/04/14/sudan-situation-update-april-2024-one-year-of-war-in-sudan/](https://www.jstor.org/stable/resrep59176?seq=1), at <https://www.jstor.org/stable/resrep59176?seq=1>.

RSF allied militias

105. General Mohamed Hamdan Dagalo forged an alliance of the RSF with various RSF-aligned militias. Some of the RSF's key commanders and officials in charge of intelligence, procurement or recruitment are members of the extended Dagalo family or have close ties to it. Units are newly mobilized, largely along ethnic lines, from the Arab ethnic groups of western Sudan and allegedly neighbouring Sahel states. These are joined by a number of militia commanders and their fighters from other parts of the Sudan's periphery and some defecting commanders from SAF and SAF-aligned armed groups. The Arab tribal militias, mainly from Darfur and Kordofan States, are allied with and have been fighting alongside the RSF. Several victims and witnesses interviewed by the Fact-Finding Mission said that they saw the Arab tribal leaders and militias engaged in military hostilities, including conducting house to house raids and manning checkpoints, alongside RSF in Darfur and Khartoum.¹³³

106. The Al Jabha al Thalitha-Tamazuj,¹³⁴ commonly called "Tamazuj" or "Third Front Tamazuj", is also allied to the RSF.¹³⁵ It gained notoriety following the 2020 Juba Agreement for Peace in the Sudan, which it signed as an armed group operating in Darfur and Kordofan states.¹³⁶ Multiple experts and witnesses told the Fact-Finding Mission that Tamazuj faction forces including recognizable military leaders were operating alongside the RSF and the Arab militia, especially during the violence in El Geneina.¹³⁷

3. Other Armed Groups

107. A number of armed groups assert that they are neither aligned with the SAF nor RSF. These include the factions of the Sudan Liberation Movement of Abdul Wahid Mohammed al-Nur (SLM/Al-Nur) and El Hadi Idriss (SLM/Transitional Council) and the Gathering of the Sudan Liberation Forces of al-Tahir Hajar in Darfur and the SPLM-N/Al-Hilu, which controls parts of South Kordofan State and Blue Nile State.¹³⁸

VI. Root causes of violations in the context of the ongoing armed conflict

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

109. Sudan is Africa's third-largest country by area and the third largest by area in the Arab League. It was the largest country by area in Africa and the Arab League until the secession of South Sudan in 2011. Its population of almost 50 million is diverse. Arab speaking Muslims are considered the largest single ethnic group at about per cent of the total population. Other ethnic groups form the majority in certain areas in Sudan including in Darfur.¹³⁹

110. Historically, tension exists between the various ethnic groups in the Sudan. Since its independence in 1956, the Sudan has been fragmented and stuck in a cycle of violence, which is structural and recurring even during times of peace. It experienced extensive periods of armed conflicts and political strife. Many of them had an ethnic component, and armed

¹³³ See further Chapter VII, Section B on Ethnic-based attacks in El Geneina.

¹³⁴ Institute for Democracy and Electoral Assistance, The Juba Agreement for Peace in Sudan Summary and Analysis, <https://www.idea.int/sites/default/files/publications/the-juba-agreement-for-peace-in-sudan-en.pdf>, p. 11.

¹³⁵ S/2024/65, para. 30.

¹³⁶ Ibid, pp. 46-47.

¹³⁷ FFMS-D-002142, FFMS-D-002167, FFMS-D-001424, FFMS-D-001416, FFMS-D-001413., and S/2024/65, para 30.

¹³⁸ FFMS-D-001416; FFMS-D-001398.

¹³⁹ <https://www.worldatlas.com/articles/the-ethnic-groups-in-sudan.html#:~:text=The%20Sudanese%20population%20consists%20of%20a%20large%20cultural.>

groups were mostly formed along ethnic lines. The tension goes back to pre-colonial times, but was exacerbated by the colonial rulers, who marginalized the areas outside the Nile basin and adopted a centralized governance structures from the capital, Khartoum. Schools, hospitals and other state services were predominantly established in Khartoum state. Post-colonial rulers adopted a similar approach and continued neglecting the other parts of the Sudan.¹⁴⁰

111. Many of those who took up arms in the prior conflicts belonged to the poorest communities outside Khartoum. Those areas remain massively neglected and underdeveloped, which has resulted in an inequitable distribution of wealth and power, further increasing tension between different communities.¹⁴¹ Their poverty was caused, in part, by neglect from the centre, underdevelopment, discrimination and ecological and demographic changes, in particular the drought and desertification in the 1970s-1980s. As a result, the fight for scarce resources became more intense between agriculturalists and cattle herders. In Darfur, for instance, cattle herders in search of pasture and water often invaded the fields and orchards of the agriculturalists, and this led to bloody clashes. Corridors that were agreed upon amongst the tribes to facilitate the movements of cattle for many years were not respected. As fertile land became scarce, settled people's tolerance of the seasonal visitors diminished.¹⁴² The crisis is also influenced by regional factors, most importantly the continuous supply of weapons and other items that fed the current and earlier conflicts.¹⁴³

112. Moreover, since independence, the Sudan has struggled with internal political instability, leading to several military takeovers and restrictive military rule imposed on the civilian population who were excluded from participation in political processes and were repressed by powerful state security forces. This situation was aggravated under former President Omar Al Bashir's 30-year rule, during which the State controlled most economic resources, which were very poorly distributed, leading to multiple armed conflicts and significant human rights violations by various actors. Former President Al Bashir's regime also imposed strict Shari'a laws, initially introduced by his predecessor President Nimeiri in 1983 as the 'September Laws', which aimed to introduce Islamic governance in the entire country. President Nimeiri was allied with the Muslim Brotherhood led by al-Turabi, who openly supported the introduction of these 'September Laws', which imposed harsh penalties including lashing and amputation. In an attempt to take control of newly discovered oil fields in between the border between North and South of the Sudan, President Nimeiri also abrogated the Addis Ababa Agreement of 1972, which had granted Southern Sudan, which was predominantly Christian, regional autonomy and recognised the diversity of the Sudanese society. The southern-based Sudanese People's Liberation Movement (SPLM), and its military wing, the Sudanese People's Liberation Army (SPLA), which emerged mid-1983, opposed these changes and denounced the September Laws and the severe punishments following from them. This ultimately led to civil war at the end of 1983. In 1984, President Nimeiri declared a state of emergency, thereby granting special powers to the military.¹⁴⁴

113. The severe drought and desertification, which hit the Sudan in the period from 1983 to 1985, put fuel on the crisis, as it gravely impacted the agricultural productivity and food availability, leading to a famine by the end of 1984.¹⁴⁵ Due to the economic crisis in the country, President Nimeiri was removed from his position after a mass protest in 1985, which led to the freeze of the September laws to enhance the Sudan's transition to democracy. A military officer, General Abdel Rahman Suwar al-Dahab seized power from 6 April 1985 to 6 May 1986, paving the way to general elections in 1986. This led to the only period of democratic rule from 1986 to 1989. Following elections, he surrendered power to a civilian government with Mr. Ahmed al-Mirghani as head of state Mr. Sadiq al-Mahdi as prime

¹⁴⁰ The Quest for Peace, Justice and Reconciliation, Report of the African Union High-Level Panel on Darfur (AUPD), October 2009.

¹⁴¹ The Quest for Peace, Justice and Reconciliation, Report of the African Union High-Level Panel on Darfur (AUPD), October 2009. See also FFMS-D-002056.

¹⁴² S /2005/60, para 55.

¹⁴³ The Quest for Peace, Justice and Reconciliation, Report of the African Union High-Level Panel on Darfur (AUPD), October 2009. See also FFMS-D-002056.

¹⁴⁴ S /2005/60. See also FFMS-D-002056.

¹⁴⁵ United States Agency for International Development declared famine on 29 November 1983.

minister. Several Sudanese that the Fact-Finding Mission spoke to still recall the name of General Suwar al-Dahab with respect for stepping aside to enable a civilian rule.

114. This period did not last long however and the coalition government that was composed of contradictory allies could not rule effectively. A military coup d'état led by General Omar al Bashir ousted the civilian government, detaining many of its political figures. General Al Bashir became president until his ousting in 2019. Establishing a strict Islamic rule, he reinstated the September laws and incorporated them into the 1991 Sudanese Criminal Act.¹⁴⁶

115. The military establishment could not adequately manage the country despite turning itself into a civilian government. Human rights groups continued to report serious violations of human rights and international humanitarian law in the country and the impunity that prevailed. In 1993, the then United Nations Commission on Human Rights, by Resolution 1993/60, appointed the first Special Rapporteur on the situation of human rights in the Sudan. The mandate continued, with brief interruption, until 2005 when the United Nations Commission on Human Rights was replaced by the Human Rights Council.¹⁴⁷ The reports of the respective Special Rapporteurs document scores of systematic massive violations of human rights.¹⁴⁸ They include extrajudicial killings and summary executions, enforced or involuntary disappearances, torture and other cruel, inhuman or degrading treatment, arbitrary arrest and detention, and freedom of expression, association and peaceful assembly.¹⁴⁹ The then newly established United Nations Human Rights Council continued to engage with the Sudan, using various formula to nudge it to address such violations, but with no avail.¹⁵⁰ Report after report described how the Government failed to implement recommendations of United Nations experts in areas such as deepening efforts to combat impunity, working with all partners to facilitate humanitarian assistance, preventing the interference of government in the activities of civil society, and enhancing national dialogue to realize an inclusive, transparent process.¹⁵¹

116. Conflict after conflict also persisted and more than 46 peace agreements have been signed since the Sudan's independence.¹⁵² One key weakness common to all past peace processes was the focus on ending the conflict without addressing the root causes of the conflict or enforcing accountability for mass atrocities. This has persisted, despite recommendations by Sudan-focused international initiatives, including the 2005 Darfur COI¹⁵³, and the African Union High-Level Panel on Darfur (AUPD) established by the African Union Peace and Security Council.¹⁵⁴ The report of the 2005 Darfur COI highlighted grave violations of human rights and international humanitarian law in Darfur, potentially amounting to crimes against humanity and war crimes, committed by the government forces and Janjaweed militias, and by rebel forces, in particular the SLM/A and JEM, necessitating urgent action to ensure accountability and justice for the victims. The report underscored the severity of the crimes committed and the need for robust international intervention to address the ongoing crisis.¹⁵⁵ The AUPD similarly stressed the importance of justice for the victims, as well lasting peace and reconciliation.¹⁵⁶

117. While the recommendation of the 2005 Darfur COI for the referral of the situation in Darfur to the Prosecutor of the International Criminal Court was implemented, the proposed creation of a compensation commission for victims, a truth and reconciliation commission,

¹⁴⁶ On 29 May 2003, the African Union Commission of Human and Peoples' Rights found that the Sudan government had engaged in arbitrarily arresting, detaining and torturing civilians, in violation of Article 5 of the African Charter on Human and Peoples' Rights and requested that the Sudanese government amend the 1991 Criminal Code to abolish punishment by lashing. See also FFMS-D-002056.

¹⁴⁷ https://ap.ohchr.org/documents/sdpage_e.aspx?b=1&c=174&t=11.

¹⁴⁸ See for example, E/CN.4/1994/48, E/CN.4/1995/58, E/CN.4/1996/62, E/CN.4/1997/58, and E/CN.4/1998/66.

¹⁴⁹ See eg, E/CN.4/1994/48.

¹⁵⁰ https://ap.ohchr.org/documents/sdpage_e.aspx?b=10&c=174&t=11.

¹⁵¹ See e.g. A/HRC/RES/33/26.

¹⁵² <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>. S/RES/1564 (2004).

¹⁵⁴ <https://archives.au.int/handle/123456789/2358>.

¹⁵⁵ S/RES/1564 (2004).

¹⁵⁶ <https://archives.au.int/handle/123456789/2358>.

and other proposed measures to end impunity were not. The AUPD recommended addressing the root causes of the conflict, including the marginalization of Darfur in any political process; strengthening the Sudan's national justice system to address the crimes committed during the conflict, the establishment of a hybrid court to deal particularly with the most serious crimes; the establishment of a Truth Justice and Reconciliation Commission (TJRC) measures for reparations for the victims of the conflict. These recommendations were not implemented, ultimately leading to another crisis. Also, in the latest negotiations following the ousting of then-President Al Bashir on 11 April 2019, accountability and root causes were not addressed, and the overall situation did not fundamentally change afterward.

118. The succeeding period saw no improvement in terms of civilian participation in political processes, despite the December 2018 civilian popular uprising, which lasted for 10 months, and planned transition to a democratic civilian rule. The civilian movement, organized through Resistance Committees, which had evolved from local grassroots groups loosely connected to each other since 2013 and further developed in a network since 2019, was perceived as a threat by the military that applied repressive methods to suppress it.¹⁵⁷

119. Women activists played a leading role in the popular uprising, and continue to play an important role in activism, which makes them a target during the current conflict. But the violence against women is not new to this conflict. Structural violence against women and girls, including sexual and gender-based violence, is part of a broader spectrum of gender inequalities rooted in the Sudan's patriarchal social norms and culture, which were consolidated and institutionalized by former President Al Bashir's rule¹⁵⁸, denying women and girls' "fundamental rights to decisions over their bodies, freedoms, and participation in decision-making processes."¹⁵⁹ While their leading role in the uprising could have led to an effective transformation of patriarchal norms and policies, the transitional civilian government did not take significant steps in that direction, and women were marginalized in subsequent decision-making and peace negotiation efforts, notably the Juba Peace Talks in 2020.¹⁶⁰ Continued impunity for acts of sexual and gender-based violence, due to political unwillingness to hold perpetrators accountable, inadequate legal tools and sociocultural barriers deterring victims from reporting incidents have also arguably greatly contributed to their perpetuation.¹⁶¹

120. Since the onset of the Darfur conflict in 2003, there have been numerous reports of conflict-related sexual violence, but the Sudanese judicial system has largely failed to prosecute these crimes domestically.¹⁶² The international community has taken some steps towards justice with the opening of the investigations by the International Criminal Court in 2005¹⁶³, and the Office of the Prosecutor concluding that "rape is an integral part of the pattern of destruction that the Government of the Sudan is inflicting upon the target groups in Darfur"¹⁶⁴ The Sudan has been notably reluctant to acknowledge the existence of conflict-related sexual violence, often denying such incidents outright and blaming such crimes on individual moral failings. This stance is also influenced by the fear of international condemnation and the potential legal repercussions, as admitting to such crimes may undermine the parties' legitimacy in peace talks and negotiations.

¹⁵⁷ See e.g., A/HRC/50/22.

¹⁵⁸ UN Women, Sudan crisis: In depth Gender Assessment, February 2024, available at <https://africa.unwomen.org/en/digital-library/publications/2024/02/sudan-crisis-in-depth-gender-assessment-report>.

¹⁵⁹ Ibid, p.7.

¹⁶⁰ Sudanese Women Trapped Between Conflict and Political Marginalization in Peace Negotiations, available at <https://www.washingtoninstitute.org/policy-analysis/sudanese-women-trapped-between-conflict-and-political-marginalization-peace>).

¹⁶¹ ACAPS Brief, Impact of the War on Women and Girls, January 2024, available at https://www.acaps.org/fileadmin/Data_Product/Main_media/20240123_ACAPS_Sudan_Analysis_Hub_thematic_report_Impact_of_the_war_on_women_and_girls.pdf).

¹⁶² <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>.

¹⁶³ See Chapter IX of this report.

¹⁶⁴ Situation in Darfur, Prosecutor's Application for Warrant of Arrest under Article 58 Against Omar Hassan Ahmad Al Bashir.

121. The Sudan also has a long history of recruitment and use of children in hostilities. Reports allege, among others, that the Sudanese Armed Forces recruited and used children during the Al Bashir era. They were popularly referred to as "*Jana Army*".¹⁶⁵ In Darfur, armed groups active in the conflict that began in 2003 already appeared on the list of the Secretary-General's annual report on children and armed conflict for recruiting and using children in hostilities in 2005.¹⁶⁶ These included the "*Janjaweed*", the JEM and the Sudan Liberation Movement/Army (SLM/A). At that time, the *Janjaweed* were aligned with the central Government and effectively controlled by its security forces.¹⁶⁷ After the restructuration of the *Janjaweed* and formation of the RSF, reports alleged that the RSF recruited underage boys in Darfur, who were deployed to fight in Yemen alongside the Saudi-led coalition in 2016 and 2017.¹⁶⁸ Under the promise of financial gain, many families encouraged their young boys to join the fight. The widespread use of children in the current conflict in the Sudan, as further elaborated in this report, demonstrates that this decades-old problem is far from being eradicated. The practice, mostly carried out by militias, feeds on severe and widespread poverty, lack of access to basic services or educational opportunities, scarce resources and livelihood opportunities and massive displacement of population generated by decades of war and require greater attention and resources to be devoted to its structural causes.

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

123. Accordingly, any solution for lasting peace must address those multifaceted root causes including the impunity gap.

VII. Findings on violations of international human rights law and humanitarian law

124. Since the outbreak of the conflict in mid-April 2023 between the SAF and the RSF, and their respective allied militias, the violence has led to an estimated over 18,800 persons killed and 33,000 injured.¹⁶⁹ A substantial number of those are civilians, who have been impacted by airstrikes, heavy artillery shelling, and ground attacks on their homes and villages. The use of explosives with wide area effects in densely populated areas, particularly in Khartoum and Darfur, has resulted in large conflict-related casualties including deaths, injuries, and extensive destruction of homes, hospitals, schools and other critical infrastructure, exacerbating the humanitarian crisis. By July 2024, 10.7 million persons were internally displaced, which includes an estimated 7.9 million persons who have been internally displaced since the start of the conflict.¹⁷⁰ More than 2.1 million persons fled to neighbouring countries.¹⁷¹

a. Conduct of Hostilities

Airstrikes and Bombardments affecting civilians

125. The conflict started in Greater Khartoum, which has been a major battleground since the conflict began in mid-April 2023. The city has seen heavy fighting, with the SAF utilizing

¹⁶⁵ Submission received during consultation on child rights. See also Report of the Secretary-General on children and armed conflict in Sudan, S/2006/662, 17 August 2006, p. 5.

¹⁶⁶ See A/59/695-S/2005/72, 9 February 2005.

¹⁶⁷ See S/2006/662, 17 August 2006, para. 12.

¹⁶⁸ See <https://www.nytimes.com/2018/12/28/world/africa/saudi-sudan-yemen-child-fighters.html>.

¹⁶⁹ See e.g., OCHA, 1 Sept 2024, <https://reports.unocha.org/en/country/sudan/>.

¹⁷⁰ <https://dtm.iom.int/sudan>.

¹⁷¹ <https://data.unhcr.org/en/situations/sudansituation> (last accessed on 12 Aug 2024).

airstrikes extensively as a part of their military strategy, and the RSF, lacking air power, relying on heavy artillery, including mortar shelling and rocket launchers. With many of these attacks taking place in densely populated areas, civilians in Greater Khartoum and other major cities in the Sudan, particularly in Darfur, have been trapped in the crossfire. This has resulted in heavy civilian casualties and affected access to basic necessities, including food, water, and medical care. These airstrikes and bombardments have also caused large-scale destruction of property. The examples below illustrate the impact of airstrikes and bombardments in densely populated areas particularly in Khartoum, El Geneina, Nyala, Zalingei and other parts of Darfur.

126. On 15 April 2023, heavy gunfire and explosions shook Khartoum, generating panic in the city and beyond. The exchange of fire between the SAF and RSF led to constant airstrikes and artillery shelling across the tri-city area of Khartoum, Omdurman and Bahri (Greater Khartoum). Shelling took place across civilian areas and the conflict spread beyond military bases to residential neighbourhoods causing civilian deaths and injuries and large-scale destruction, including of critical bridges. Witnesses also told the Fact-Finding Mission that the neighbourhoods of Umbada, East Nile, Dar al-Salam, Abu Saad, Burri al-Mahas, Al-Salama al-Qadema, Salama al-Kababesh, al-Azhari, al-Inkaz, and al-Nahda were subjected to frequent airstrikes and shelling.¹⁷² Analysis of satellite imagery reveals that these areas are densely populated and contain houses, shops, schools, hospitals, and places of worship.

127. From mid-April 2023 onwards, frequent shelling and airstrikes in Greater Khartoum continued, affecting various neighbourhoods.¹⁷³ Bombs were reportedly dropped at rapid intervals in al-Diyum neighbourhood, a residential area, in Khartoum on 22 April 2023, resulting in civilian deaths.¹⁷⁴ One witness counted six bombings while hiding under the stairs of their shattered building. He saw an airplane circling in the skies once he left the building. The witness saw four people lying on the ground, killed as a result of the attack. All were civilian. He does not recall seeing any RSF members in the vicinity of the attack. According to another witness, between April and June 2023, the al-Remila neighbourhood in Khartoum suffered shelling from both the SAF and RSF.¹⁷⁵ The witness stated that intense shelling was occurring between the SAF and RSF in al-Diyum, controlled by the RSF at the time, and the SAF base in al-Amarat. Some of the shells landed in al-Remila due to the infighting in those areas. The witness recounted those five or six shells landed in al-Remila, including one that struck a mosque, causing deaths and injuries. The civilian death toll continued to rise.

128. The shelling and airstrikes continued without signs of abating in Greater Khartoum. On 10 September 2023, an airstrike hit Goro market in the Mayo area south of Khartoum, resulting in the death of more than 30 individuals and injuries to many more, including women and children, and extensive damage to the market.¹⁷⁶ A witness of the attack recounted that although vendors affiliated with the RSF may have been present in the market, they were too spread out for the attack to have specifically targeted them, and that the majority of those killed were civilians.¹⁷⁷

129. Airstrikes and shelling were so prevalent that one could witness multiple strikes. An interviewee told the Fact-Finding Mission that he witnessed several airstrikes in Haj Youssef neighbourhood of East Nile, Khartoum. In August 2023, his brother was killed along with at least five other people, including a child, when two airstrikes landed in the neighbourhood. He witnessed two additional airstrikes in East Nile at the end of 2023 and the beginning of 2024. One of these airstrikes, carried out by an aircraft, destroyed two houses and killed a family of seven. The second airstrike resulted in 13 injuries and the death of a child.¹⁷⁸

¹⁷² FFMS-D-001293; FFMS-D-001424; FFMS-D-001268; FFMS-D-001266; FFMS-D-001249; FFMS-D-000047; FFMS-D-000021.

¹⁷³ FFMS-D-000021; FFMS-D-001283; FFMS-D-002129; FFMS-D-001309.

¹⁷⁴ FFMS-D-001244.

¹⁷⁵ FFMS-D-001283.

¹⁷⁶ FFMS-D-001293; FFMS-D-001424.

¹⁷⁷ FFMS-D-001293.

¹⁷⁸ FFMS-D-001266.

130. An interviewee recounted how an airplane attack in December 2023 destroyed his family's three-story house in the Abu Saad neighbourhood of Omdurman.¹⁷⁹ The aerial bombing killed his mother, brother, and sister. His other brother heard the plane hovering overhead at the time of the attack. According to the interviewee, an RSF vehicle had been in the neighbourhood several days before the attack but had left three to four days prior. The interviewee provided the Fact-Finding Mission with videos and images of the destroyed house.¹⁸⁰ Using the house's coordinates, the Fact-Finding Mission confirmed via satellite imagery that the house was damaged following the alleged aerial bombardment.¹⁸¹

131. The conflict immediately spread to Darfur, widely affecting its towns. In May and June 2023, there was intense artillery shelling of various neighbourhoods in El Geneina, West Darfur including al-Jamarek and al-Madares neighbourhoods.¹⁸² Mortars fell on civilian houses,¹⁸³ medical facilities,¹⁸⁴ internally displaced persons (IDP) sites and schools.¹⁸⁵ The shelling reportedly came from west and south of El Geneina, areas which were under the control of the RSF.¹⁸⁶ The Fact-Finding Mission also conducted interviews with witnesses who, in the beginning of November 2023, experienced intense shelling of the IDP camp and marketplace in Ardamata, northeast of El Geneina, resulting in many casualties.¹⁸⁷ The attack came after fierce battles between the RSF and SAF near SAF's 15th Infantry Division base in Ardamata, which resulted in the withdrawal of the 15th Infantry Division.

132. In Nyala, South Darfur, the RSF and their allies engaged in a six-month armed confrontation with the 16th Infantry Division of the SAF for control of the city. During that period the SAF launched heavy airstrikes; and the RSF constantly shelled the area affecting civilian neighbourhoods. An interviewee told the Fact-Finding Mission that her family house in Alemidad neighbourhood was struck in June 2023, killing her pregnant sister-in-law, mother, and two brothers.¹⁸⁸ Another interviewee told the Fact-Finding Mission that the SAF were launching artillery from their base. A shell fell in his neighbourhood, killing his neighbour, the neighbour's brother and sister.¹⁸⁹ The Taiba bridge in Nyala was shelled in August 2023, causing death and injury to civilians who were seeking shelter near the bridge.¹⁹⁰ The fighting persisted until 26 October 2023, when the RSF captured SAF's base in Nyala.

133. In Zalingei, Central Darfur, armed confrontations ensued between the SAF and RSF and their allied militias, from 15 April until 31 October 2023, when the RSF captured the SAF base. During that period, the SAF and RSF exchanged shelling affecting civilian neighbourhoods, resulting in civilian deaths, injuries and displacement, including in the Stadium and Kunjumia, neighbourhoods, and Hasahisa IDP camp.¹⁹¹

134. In El-Fasher, North Darfur, since April 2023, the RSF and the SAF, along with their allied groups, have been engaged in a continuous battle for the control of the city and its surrounding towns and villages, culminating in a siege around the city and increased shelling. The Fact-Finding Mission documented a series of artillery shelling of populated residential areas and IDP sites, in and near El-Fasher between May and July 2024, resulting in several civilian deaths and injuries and forcing thousands to flee their homes.¹⁹² As a consequence of the siege and increased violence, the Security Council demanded, *inter alia*, the RSF to end the siege of El-Fasher and called for an immediate cessation of hostilities and de-escalation

¹⁷⁹ FFMS-D-001249.

¹⁸⁰ FFMS-D-001246; FFMS-D-001247; FFMS-D-001248; FFMS-D-001250; FFMS-D-001251; FFMS-D-001254.

¹⁸¹ FFMS-D-001252 (prior to the alleged attack); FFMS-D-001253 (after the alleged attack).

¹⁸² FFMS-D-002109; FFMS-D-002110; FFMS-D-002111.

¹⁸³ FFMS-D-002114; FFMS-D-002112.

¹⁸⁴ FFMS-D-002113; FFMS-D-002110; FFMS-D-002112.

¹⁸⁵ FFMS-D-002115; FFMS-D-002109; FFMS-D-002111.

¹⁸⁶ FFMS-D-002109; FFMS-D-002110.

¹⁸⁷ FFMS-D-002116; FFMS-D-002117.

¹⁸⁸ FFMS-D-001312.

¹⁸⁹ FFMS-D-001269.

¹⁹⁰ FFMS-D-002108; FFMS-D-001710; FFMS-D-001423; S/2024/65, para. 111.

¹⁹¹ FFMS-D-001419, FFMS-D-001662, FFMS-D-001417; FFMS-D-002123.

¹⁹² FFMS-D-002118; FFMS-D-001428; <https://www.hrw.org/news/2024/06/19/sudan-unlawful-attacks-civilians-infrastructure>.

in and around the city and for the withdrawal of all combatants who posed a threat to the safety and security of civilians.¹⁹³ The RSF launched its last operation to gain control of the city in September 2024 and managed to advance into central areas, breaching SAF's outer defences and pushing toward key military positions like the Grand Market and 6th Infantry Division Headquarters. This mirrors previous RSF tactics in cities like Nyala and Zalingei, which saw prolonged shelling followed by a final concentrated offensive. The SAF, supported by a coalition of local militias and ex-rebel groups, including the SLM, JEM, and Zaghawa militias, have been countering the RSF's offensive. While these forces have shown resilience, they continue to lose ground and the RSF continues to gain ground and encircle SAF's positions in the city. These latest clashes in and around El Fasher has led to significant casualties, which need to be further investigated.

135. On 5 June 2024, the village of Wad al-Noura in Sudan's Gezira state was subjected to a violent attack by the RSF and allied militias. The RSF reportedly used weapons with wide-area effects, including artillery shells, which was followed by fighters storming the village. Attackers are alleged to have used machine guns, automatic rifles, and other weaponry to fire at civilians. The attack reportedly resulted in more than 100 killed, including more than 35 children, and many more injured and displaced.¹⁹⁴ The Fact-Finding Mission was able to verify and geo-locate some of the videos shared online following the attack that illustrate the extent of the attack and its significant death toll.¹⁹⁵

136. By August 2023, the fighting had escalated to all three Kordofan states.¹⁹⁶ In Kadugli, South Kordofan, armed clashes in August 2023 between SPLM-N/Al-Huli and the SAF, using heavy artillery shelling, allegedly caused the displacement of many residents.¹⁹⁷ In September 2024, dozens of people, including many children, were reportedly killed after multiple shells landed on Sennar city.¹⁹⁸

137. Schools were also subjected to airstrikes and bombardments, resulting in the death and injury of a significant number of children. For example, in South Kordofan, in the morning of 14 March 2024, the SAF reportedly bombed Hadra elementary school, killing 11 children and two teachers, and injuring 46 pupils.¹⁹⁹ According to an eyewitness, the pupils heard the sound of an airplane as they were queuing to enter their classrooms. Then the airplane dropped bombs one of which hit the school.²⁰⁰ In a separate incident, the RSF allegedly shelled a mosque in Al-Tijaniyah neighbourhood in El-Fasher, killing and injuring several individuals, mostly children.²⁰¹

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

¹⁹³ S/RES/2736 (2024).

¹⁹⁴ <https://www.ohchr.org/en/statements/2024/06/turk-profoundly-shocked-killings-sudans-wad-al-nawara>
<https://www.unicef.org/press-releases/least-55-children-reportedly-killed-and-injured-amid-fighting-wad-al-noura-sudan>.

¹⁹⁵ <https://x.com/ajmubasher/status/1798508492111704350> (14.536426, 32.509389);

<https://x.com/ThomasVLInge/status/1798360565007692080> (14.530861, 32.474298 (POV)).

¹⁹⁶ IOM, Regional Sudan Response Situation Update, 22 August 2023, <https://reliefweb.int/report/sudan/regional-sudan-response-situation-update-22-august-2023>.

¹⁹⁷ IOM | DTM, <https://mailchi.mp/iom/dtm-sudan-flash-alert-kadugli-kadugli-town-south-kordofan-update-004?e=f3b8ebcb6b>.

¹⁹⁸ <https://www.unicef.org/press-releases/least-30-children-reportedly-killed-or-injured-shelling-civilian-areas-sennar-city>.

¹⁹⁹ FFMS-D-001235; FFMS-D-000018; FFMS-D-001283.

²⁰⁰ FFMS-D-001235.

²⁰¹ Confidential consultations held in Nairobi on 15 August 2024. See also: <https://sudanwarmonitor.com/p/fe7>;
<https://sudantribune.com/article287705/>; <https://www.dabangasudan.org/en/all-news/article/nine-dead-in-rsf-shelling-of-mosque-in-north-darfur-capital>.

inconsistent with international humanitarian law, including indiscriminate attacks posing a risk to the lives of civilians, also violate international human rights law.

Destruction of civilian objects and infrastructure

139. The Fact-Finding Mission established that civilian infrastructure and objects, including objects indispensable to the survival of the civilian population, were attacked, damaged or destroyed by both the RSF and SAF. As further detailed below, water treatment plants and pumping stations, communication networks and electricity supply lines were destroyed in Khartoum, Darfur and other locations, leaving civilians in dire conditions.

140. Large-scale destruction of residential homes through airstrikes and shelling left thousands of civilians without shelter, forcing many to flee and seek refuge in other locations. Civilians reported that shells fell on residential houses, causing extensive damage.²⁰² Destruction of critical infrastructure was also reported across all the areas affected by the conflict. Satellite images, aerial photographs and videos reviewed by the Fact-Finding Mission showed extensive destruction and damage to property and infrastructure in various locations.²⁰³ In Khartoum, aerial bombardments and explosives affected water pipes and water treatment plants, leaving various neighbourhoods with severe water shortages.²⁰⁴

141. Information received by the Fact-Finding Mission confirmed that civilians were left in dire straits with no electricity or water, especially in Greater Khartoum and Darfur.²⁰⁵ In most cases, both the SAF and RSF employed the kind of weapons incapable of distinguishing civilian objects and critical infrastructure, such as bombs and artillery shells.

142. Medical facilities in various locations affected by the conflict were also subjected to attacks, causing severe disruptions to the health care system. The Fact-Finding Mission documented a series of attacks on medical facilities, including through airstrikes and shelling: In Khartoum, Al Shaab Teaching²⁰⁶ and Ibn Sina hospitals on 17 April 2023; Al-Roumy Medical Centre on 25 April 2023; East Nile hospital on 15 May 2023;²⁰⁷ Shuhada Hospital on 30 June and 9-10 October 2023; Al Nao Hospital on 9 October 2023²⁰⁸ and 19 June 2024.²⁰⁹ In El-Fasher, the South Hospital was shelled on 25, 26 and 31 May 2024, while the Saudi hospital was shelled multiple times between May and July 2024.²¹⁰ In El-Daein, the Teaching Hospital, was struck by an airstrike on 20 August 2024, resulting in civilian deaths and injuries.

143. The attacks on medical facilities led to destruction and/or permanent closure of some of the facilities. Medical personnel also fled the affected areas. As a result, many civilians were left without access to medical treatment, leading to death and contributing to displacement to seek medical assistance.²¹¹

144. The RSF and allied militias also destroyed a significant part of the civilian infrastructure in these areas. Witnesses in different areas of Darfur observed the burning of houses, schools, water wells, shops, food markets, businesses, government and other official buildings including courthouses, medical centres and hospitals.²¹²

²⁰² FFMS-D-002129; FFMS-D-002151; FFMS-D-001423; FFMS-D-002092; FFMS-D-002220.

²⁰³ FFMS-D-001252; FFMS-D-001253.

²⁰⁴ See e.g., OCHA, Sudan: Clashes between SAF and RSF, 2 May 2023; ACAPS, Sudan: Impact of the current conflict on WASH needs, 11 September 2023, available at https://www.acaps.org/fileadmin/Data_Product/Main_media/20230911_ACAPS_thematic_report_Sudan_impact_of_current_conflict_on_WASH_needs.pdf.

²⁰⁵ FFMS-D-001726; FFMS-D-001724; FFMS-D-001726; FFMS-D-001320.

²⁰⁶ FFMS-D-001314, FFMS-D-001724.

²⁰⁷ FFMS-D-001314, FFMS-D-001724.

²⁰⁸ <https://www.doctorswithoutborders.ca/statement-msf-supported-al-nao-hospital-in-omdurman-northwest-khartoum-hit-by-shelling/>.

²⁰⁹ <https://www.doctorswithoutborders.org/latest/sudans-war-people-must-end-now>.

²¹⁰ FFMS-D-001428; <https://www.msf.org/sudan-msf-outraged-and-alarmed-over-repeated-attacks-hospitals-el-fasher-and-blockade-urgently>.

²¹¹ FMS-D-002166; FFMS-D-000047; FFMS-D-002163; See also <https://news.un.org/en/story/2024/07/1152596>.

²¹² FFMS-D-002165; FFMS-D-002088; FFMS-D-002086; FFMS-D-002157; FFMS-D-002154; FFMS-D-002092.

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

Pillage

“We lost everything”

Words echoed by multiple survivors from Khartoum and Darfur

146. The Fact-Finding Mission also documented widespread pillage and looting, predominantly by the RSF, and allied militias. They were sometimes followed by civilians, bandits, and groups of looters including “Kassiba”.²¹³ Multiple incidents of pillage and looting, in numerous instances accompanied by killings and other forms of violence against civilians, were reported in and around Khartoum, Gezira, and Darfur, particularly in and near the towns of El Geneina, Ardamata, Nyala, El Fasher and Zalingei. The RSF routinely raided homes, assaulting civilians and looting their property. Several hospitals were looted by the RSF, and their staff and patients assaulted or even killed during the attack. Pillage and looting was also witnessed in governmental buildings, courts, office spaces, schools, IDP camps, markets, at checkpoints or in the street. The pillage and looting resulted in serious deprivation of objects indispensable to the survival of the civilian population, including food and medicine.

147. Civilians lost their possessions, including cars, money, gold, clothes and furniture and other household items, including refrigerators, gas cylinders and household appliances, which were seized by the RSF and its allied militias. Victims and witnesses recounted widespread pillage and looting in Khartoum, Darfur, Gezira and other areas affected by the conflict. An interviewee from El Geneina described how the *Janjaweed* entered his house and searched the rooms. *“They took the chairs, the beds, clothes and furniture, anything they could find in the house they took. [...] This other group of Janjaweed and one RSF found more money, which they took, and they also took the TV screen and the small fridge.”*²¹⁴ Civilians from Gezira similarly narrated how the RSF looted their property in Wad Madani, upon seizing the city in December 2023.²¹⁵ Commercial shops and merchandize in stores were also looted.²¹⁶ The Fact-Finding Mission also received submissions from several victims whose houses were occupied by the RSF and/or their allied militias after they were displaced from their homes.²¹⁷ Many fleeing civilians were stopped by the RSF or their allied militias and forced at gunpoint to hand over their personal items, including mobile phones and money.²¹⁸

148. In Darfur, the pillage, looting and destruction of property affected entire livelihoods and civilian structure, including shelter, food and water, the health system, water-stations, public offices and facilities, of non-Arab communities, in particular the Masalit.²¹⁹ One report concluded that “[t]he pillage, arson and destruction began from the onset of the fighting and continued long afterward, all but erasing Masalit neighbourhoods from the map after the bulk of the community fled in mid-June.”²²⁰

²¹³ “Kassiba” or “Kasaba” is an Arabic colloquial term in Sudan, which literally translates as profiteers. It is commonly used to refer to groups of outlaws engaged in robbery and looting of houses during the time of war”.

²¹⁴ FFMS-D-002097.

²¹⁵ FFMS-D-002247; FFMS-D-002246; FFMS-D-002232; FFMS-D-002231.

²¹⁶ FFMS-D-002248; FFMS-D-002249; FFMS-D-002238; FFMS-D-002237; FFMS-D-001727; FFMS-001269; FFMS-D-001727; FFMS-D-001269.

²¹⁷ FFMS-D-002236.

²¹⁸ FFMS-D-001309; FFMS-D-001945; FFMS-D-002131.

²¹⁹ See Section B of this Chapter on Ethnic-based attacks in El Geneina.

²²⁰ Human Rights Watch, *The Masalit Will Not Come Home: Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan*, May 2024.

149. Many civilians, having been forced to flee their homes, and having lost all their property and savings to looting and destruction, endured untold humiliation and degradation of having to depend on others or relief aid for survival. Several individuals lost their jobs and livelihoods and were forced into a life of extreme hardship due to lack of a source of income, coupled with poverty and the high cost of living in the locations that they fled to.²²¹ Many civilians spoke of the psychological effects of having to endure extreme hardship after losing everything.²²²

150. The process of documenting the losses has begun. For instance, the Fact-Finding Mission was provided with a document prepared by a Sudan-based civil society organization, listing looted and destroyed property, including houses, furniture, money, and gold, of 5663 individuals who fled from their home areas, mostly Khartoum.²²³ The Fact-Finding Mission also received approximately 400 submissions about looting, half of which related to Khartoum state, 32 to Gezira state, 1 to al Qadarif, 1 to Kordofan, 1 to Kassala, 1 to Darfur, 1 to Sennar, and the others were unspecified. Based on the Fact-Finding Mission's documentation, this appears to be only a fraction of the reality.

151. The looting and destruction, including of cultural property, continues unabated. On 12 September 2024, the United Nations Educational, Scientific and Cultural Organization (UNESCO), raised the alarm over reports of looting of cultural items and damage to museums and heritage institutions in the Sudan, including the National Museum of the Sudan. UNESCO stressed that the "threat to culture appears to have reached an unprecedented level, with reports of looting of museums, heritage and archaeological sites and private collections," and called upon the public and the art market to refrain from acquiring or taking part in the import, export or transfer of ownership of cultural property from the Sudan.²²⁴

152. Based on the foregoing, the Fact-Finding Mission finds that the RSF and its allied militias, at times with the involvement of civilians or Kassiba, engaged in a pattern of pillage and looting, attacking, removing, rendering useless or destroying objects indispensable to the survival of the civilian population in violation of international humanitarian law. Under international human rights law, it finds that these acts violate the economic, social and cultural rights of the civilian population, in particular their rights to physical and mental health and to food, water and housing.

b. Ethnic-based attacks in El Geneina

153. In some parts of the country, the violence had an ethnic undertone. This is particularly manifest in the attacks carried out against non-Arab communities, including the Masalit, in West Darfur. In El Geneina, the capital of West Darfur, the current conflict further stretched pre-existing tribal tensions. Between April and November 2023, the conflict in El Geneina pitted the RSF and its predominately Arab allied militias against the SAF and their allies, including the Sudanese Alliance led at the time by the Governor of West Darfur Khamis Abakar, and other Masalit ethnic groups. The ethnic violence that ensued reflects enduring tensions that have been simmering for many years and can be traced back several decades.

154. There is a long history of ethnic tensions in Darfur as was stated earlier.²²⁵ The 2005 Darfur COI had found that the Government of the Sudan and the Janjaweed associated with it were responsible for a number of violations of international human rights and humanitarian law, some of which violations were very likely to amount to war crimes and crimes against humanity.²²⁶ The majority of the victims of the attacks between 2003 and 2005 belonged to African tribes, in particular the Fur, Masalit and Zaghawa tribes.²²⁷ Until the 3 October 2020 Juba Peace Agreement signed between the Transitional Government of Prime Minister

²²¹ FFMS-D-002233

²²² FMS-D-002251; FFMS-D-002250; FFMS-D-002254; FFMS-D-002253; FFMS-D-001775; FFMS-D-001727.

²²³ FFMS_D_002565; FFMS_D_002566.

²²⁴ <https://www.unesco.org/en/articles/sudan-unesco-raises-alarm-reports-illicit-trafficking-cultural-heritage?hub=701>

²²⁵ S /2005/60, paras. 630-639.

²²⁶ S /2005/60, para 630.

²²⁷ S /2005/60, para. 638.

Hamdok and some Darfurian militias, the Darfur conflict produced a severe humanitarian crisis, with thousands killed and millions displaced.

155. Nevertheless between 2019 and 2021, West Darfur experienced several violent clashes between the Masalit and Arab communities, fueled by longstanding ethnic tensions, competition over land and resources, and the legacy of the broader Darfur conflict that began in 2003. Attacks increased after the end of the UNAMID's mandate in late 2020. Prior to the current conflict, El Geneina was an ethnically diverse city with a population of around 540,000 inhabitants. The population was predominately Masalit, along with a notable Arab population.

156. Between 15 and 24 April 2023, El Geneina experienced sporadic violence, escalating from the broader conflict between the SAF and RSF that had erupted nationwide. Initially, clashes in El Geneina started as part of the conflict between these military forces but quickly descended into ethnically charged violence. During this period, a man aligned to the Masalit militia reportedly shot and killed another person from the Arab community, which further heightened tensions.²²⁸ Government officials, civil society actors, and other leaders among the Masalit and Arab communities in El Geneina met on 23 April 2023 in an effort to curb the tensions and prevent the conflict between the SAF and RSF from expanding to El Geneina.²²⁹ These efforts were cut short when fighting erupted on the following day.

157. On 24 April 2023, the RSF and its allied militias attacked a SAF convoy in the al-Jamarek neighbourhood in El Geneina.²³⁰ The RSF and allied militias encircled the al-Jamarek, al-Thawra, al-Tadamon and al-Madares neighbourhoods, subjecting them to intense mortar shelling and sniper fire, causing a large number of casualties.²³¹ As some of the SAF vehicles retreated to their base in Ardamata,²³² a number of SAF soldiers reportedly took cover in civilian neighbourhoods.²³³ The RSF and allied militias began a campaign of violence targeting the Masalit community in El Geneina, resulting in large-scale atrocities including thousands of killings,²³⁴ torture, rape and other forms of sexual violence, pillage and destruction of property. During these attacks, the SAF failed to protect the civilian population.

158. In addition to the ethnic undertone, violations targeting the Masalit community were also perpetrated along intersecting gender lines. Masalit men were systematically targeted for killing. The RSF and allied militias went door to door in Masalit neighbourhoods, looking for men and brutally attacking and killing them, sometimes in front of their families.²³⁵ Lawyers, doctors, human rights defenders, academics, community and religious leaders were also specifically targeted.²³⁶ RSF commanders reportedly issued orders to "comb the city" and place checkpoints throughout.²³⁷ One interviewee explained that the RSF broke into their house in al-Tadamon and opened fire on the interviewee's 10-year-old son and two nephews (16 and 17 years old), killing them on the spot. They then took the interviewee and the rest of the family outside the house and told them that they should look for another place to live because they are Masalit.²³⁸ Another interviewee explained how the RSF attacked their house in al-Jabal neighbourhood. They insulted, beat, and then shot and killed five men. They compared her husband to a black donkey before killing him.²³⁹

159. Women were assaulted, raped and robbed of their belongings because of their gender and ethnicity. The attackers used derogative terms about the Masalit in the context of rape

²²⁸ FFMS-D-001305; FFMS-D-001421; FFMS-D-002163.

²²⁹ FFMS-D-001422; FFMS-D-001421.

²³⁰ FFMS-D-002115; FFMS-D-002152; FFMS-D-002142; FFMS-D-002124.

²³¹ FFMS-D-002112; FFMS-D-002113; FFMS-D-002115; FFMS-D-002122.

²³² FFMS-D-002122; FFMS-D-002142.

²³³ FFMS-D-002124; FFMS-D-002109.

²³⁴ S/2024/65.

²³⁵ FFMS-D-002124; FFMS-D-001953; <https://www.hrw.org/report/2024/05/09/massalit-will-not-come-home/ethnic-cleansing-and-crimes-against-humanity-el>.

²³⁶ FFMS-D-002115; FFMS-D-002082; FFMS-D-002152.

²³⁷ FFMS-D-002124.

²³⁸ FFMS-D-002149.

²³⁹ FFMS-D-001947.

and other forms of sexual violence. A survivor from El Geneina told the Fact-Finding Mission that her perpetrator said to her: “We will make you, the Masalit girls, give birth to Arab children” after raping her inside her house at gunpoint.²⁴⁰ Several women reported that they were explicitly told by the RSF and its allied militias to leave for Chad and not to return or else they would be harmed.²⁴¹

160. The height of the assault on El Geneina occurred on 14 and 15 June 2023, following the capture and subsequent killing of the Governor (Wali) of West Darfur, Khamis Abakar, a Masalit. The Governor had been in the custody of the RSF prior to his killing. During the night of 14 June, tens of thousands of individuals, the majority of them Masalit civilians, attempted to flee from al-Jamarek and al-Madares neighborhoods and seek refuge in Ardamata.²⁴² At dawn on 15 June, as the miles-long convoy of people passed through the El Geneina neighborhoods of al-Shati’ and al-Naseem, it was ambushed by RSF and its allied militias.²⁴³ The attackers fired at the convoy from their vehicles, killing and injuring thousands of individuals, leaving many dead bodies on the streets of El Geneina, Kaja valley, and on the road to Chad, including of women and children.²⁴⁴ In the days that followed, the RSF and its allied militias continued to pursue and attack fleeing civilians, with violence spreading along the escape routes to Chad.²⁴⁵

161. The RSF and its allied militias also pillaged,²⁴⁶ burned down²⁴⁷ or otherwise destroyed²⁴⁸ and shelled Masalit neighborhoods in El Geneina.²⁴⁹ Interviewees described the RSF and allied militias using racial slurs against Masalits and other non-Arab groups, describing them as “umbay/slave” “komrod/Masalit fighter”, “nuba/black”, accompanied by threats and claims that the land belonged to Arabs.²⁵⁰ Several Masalit detainees at the RSF base in al-Jamarek and other locations endured severe beatings, other ill-treatment and torture.²⁵¹

162. In early November 2023, the RSF and its allied militias attacked Ardamata, northeast of El Geneina, killing numerous civilians, including women and children, and pillaging property.²⁵² At the time, Ardamata housed thousands of IDPs, many of whom had come from El Geneina in the preceding months and causing thousands to flee to Chad and elsewhere.²⁵³ The Fact-Finding Mission spoke to eye witnesses that saw men being gathered and summarily executed in Tirsana square near the Ardamata camp.²⁵⁴

163. This widespread violence and destruction triggered hundreds of thousands of persons to flee.²⁵⁵ Injured individuals fleeing towards Chad were presumed to be fighters and targeted at checkpoints, with some tortured and killed.²⁵⁶ Individuals were also asked to declare their ethnicity at checkpoints manned by the RSF and its allied militias.²⁵⁷ Some interviewees reported that they lied about their tribal affiliation out of fear.²⁵⁸ An interviewee told the Fact-Finding Mission that the RSF and their allied militias stopped her and her family at a checkpoint and asked them “Where are you going negros? You deserve to die. You are

²⁴⁰ FFMS-D-002096.

²⁴¹ FFMS-D-002102; FFMS-D-002097; FFMS-D-002096.

²⁴² FFMS-D-002114; FFMS-D-002116.

²⁴³ FFMS-D-002099; FFMS-D-002092; FFMS-D-002113; FFMS-D-002111.

²⁴⁴ FFMS-D-001714; FFMS-D-002125; FFMS-D-002111; FFMS-D-002114; FFMS-D-002116.

²⁴⁵ FFMS-D-002149; FFMS-D-002083.

²⁴⁶ FFMS-D-002125; FFMS-D-002104.

²⁴⁷ FFMS-D-002104; FFMS-D-002089.

²⁴⁸ FFMS-D-002113.

²⁴⁹ FFMS-D-002109; FFMS-D-002110; FFMS-D-002111.

²⁵⁰ FFMS-D-002102; FFMS-D-002098; FFMS-D-002109; FFMS-D-002097; FFMS-D-002083; FFMS-D-001952.

²⁵¹ FFMS-D-002124; FFMS-D-002111; FFMS-D-001950; FFMS-D-001947.

²⁵² FFMS-D-002169; FFMS-D-002116; FFMS-D-002126; FFMS-D-002117.

²⁵³ FFMS-D-002116.

²⁵⁴ FFMS-D-002126; FFMS-D-002116.

²⁵⁵ S/2024/65.

²⁵⁶ FFMS-D-002083; FFMS-D-002110.

²⁵⁷ FFMS-D-002083; FFMS-D-002146.

²⁵⁸ FFMS-D-002083; FFMS-D-002146; FFMS-D-002128; FFMS-D-002151.

Masalit.” One of the armed men then shot and killed the interviewee’s three male cousins in plain sight.²⁵⁹

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

c. Sexual and Gender-Based violence

165. Sexual violence in the Sudan has a long and tragic history, often used as a weapon of war to terrorize and control communities during periods of conflict.²⁶⁰ It has also been used by Sudanese military and security forces to repress activists, members of the political opposition, and since 2019 also pro-democracy protesters.²⁶¹ Both the SAF and the RSF have been listed in the annex to the Report of the Secretary-General on Conflict-Related Sexual Violence since 2017, as “*parties credibly suspected of committing or being responsible for patterns of rape or other forms of sexual violence in a situation on the Security Council agenda*”.²⁶²

166. The ongoing conflict between the SAF and the RSF has seen a resurgence of sexual violence. Especially rape and gang-rape are widespread and continue to occur on a large scale, in particular during invasions of cities, attacks on IDP sites and against individuals fleeing conflict-affected areas, as well as prolonged occupation of urban residential areas by armed men. While women and girls are overwhelmingly targeted by these acts, further investigations into the possible use of sexual violence against men and boys in this context are required.

²⁵⁹ FFMS-D-002102.

²⁶⁰ See Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, (2005), p. 94 available at: <https://reliefweb.int/report/sudan/report-international-commission-inquiry-darfur-united-nations-secretary-general> ; Sudan, Darfur: Rape as a Weapon of War, Amnesty International (2004) available at: <https://www.amnesty.org/en/documents/afr54/076/2004/en/>, Physicians for Human Rights in partnership with Harvard Humanitarian Initiative, Nowhere to turn: Failure to Protect, Support and Assure Justice for Darfuri Women A Report, 2009, Appendix C, available at: <https://phr.org/our-work/resources/nowhere-to-turn/>.

²⁶¹ <https://unitams.unmissions.org/en/unitams-srsg-mr-volker-perthes-remarks-security-council> ; Human Rights Watch, “‘They were Shouting ‘Kill Them’’: Sudan’s Violent Crackdown on Protesters in Khartoum (2019), available at: <https://www.hrw.org/report/2019/11/18/they-were-shouting-kill-them/sudans-violent-crackdownprotesters-khartoum>.

²⁶² Press statement : Sudan :UN Special Representative on Sexual Violence in Conflict engages with parties to address sexual violence, 1 August 2023, available at: [https://www.un.org/sexualviolenceinconflict/press-release/sudan-un-special-representative-on-sexual-violence-in-conflict-engages-with-parties-to-address-sexual-violence/#:~:text=as%20we%20transition.,SUDAN%3A%20UN%20Special%20Representative%20on%20Sexual%20Violence%20in%20Conflict%20engages,parties%20to%20address%20sexual%20violence&text=Today%2C%20SRSG%20Patten%2C%20pursuant%20to,Rapid%20Support%20Forces%20\(RSF\)](https://www.un.org/sexualviolenceinconflict/press-release/sudan-un-special-representative-on-sexual-violence-in-conflict-engages-with-parties-to-address-sexual-violence/#:~:text=as%20we%20transition.,SUDAN%3A%20UN%20Special%20Representative%20on%20Sexual%20Violence%20in%20Conflict%20engages,parties%20to%20address%20sexual%20violence&text=Today%2C%20SRSG%20Patten%2C%20pursuant%20to,Rapid%20Support%20Forces%20(RSF)).

Responsibility for acts of sexual violence

167. A large majority of rape cases and other forms of sexual violence documented in this report have been attributed to men wearing RSF uniforms and, in the context of Darfur, armed men allied to the RSF -the *Janjaweed*-, wearing traditional attire²⁶³ and a scarf wrapped around their head masking most of their facial features²⁶⁴, making it difficult for victims to identify them.

168. The Fact-Finding Mission documented a few cases of sexual violence attributed to the SAF, including SAF military intelligence. It should be noted that internally displaced civilians tend to flee to SAF-controlled areas, where it is more difficult for them to report on violations by the SAF. The Fact-Finding Mission also received information concerning allegations of sexual exploitation of women and girls by the SAF in exchange for food in areas under their control,²⁶⁵ Further investigations are needed to document the patterns and the extent of these acts.

169. Victims and witnesses provided detailed explanations on how they differentiated between the RSF and SAF, including details of the uniform, and how they knew when control over an area shifted from one party to another. Victims and witnesses also explained how they differentiated between the RSF and *Janjaweed* fighters, mainly based on the uniform (or absence thereof) as well as the vehicles and sometimes weapons used by the attackers. Interviewees consistently referred to the RSF moving around in pickup trucks with R.S.F plates,²⁶⁶ with Dshk (*doshka*) machine guns, while *Janjaweed* moved on motorbikes or sometimes on horses or camels.²⁶⁷

170. As a result of the SAF and the RSF fighting for control over strategic locations in urban residential areas, and women and girls having to move repeatedly from one area to another in search of safety from active conflict, women and girls were exposed to the threat of sexual violence by both parties to the conflict. The Fact-Finding Mission spoke to a woman who was raped by a member of SAF during a house search only a few days after she changed neighbourhood after narrowly escaping rape by the RSF.²⁶⁸

Victims

171. While women and girls between 17 and 35 years old constitute the majority of the victims in the evidence reviewed by the Fact-Finding Mission, first-hand sources informed of rape of girls as young as eight years and women as old as 75 years.²⁶⁹ Men and boys were not spared, although the number of reported cases is substantially lower. Though there probably are fewer male victims, the very low number of cases documented may also be due to cultural norms and the lack of dedicated referral pathways that make it difficult for male survivors to come forward and seek support after an assault of a sexual nature.²⁷⁰ The Fact-Finding Mission collected victim testimonies on the use of sexual violence, including forced nudity, beatings on genitals and rape threats, against men and boys in detention during or prior to their interrogation.²⁷¹ The Fact-Finding Mission also received credible information,

²⁶³ *Jalabiya* (جلابية).

²⁶⁴ *Kadamol* (كدمول).

²⁶⁵ <https://www.theguardian.com/world/article/2024/jul/22/women-forced-to-have-sex-with-soldiers-for-food-in-sudanese-city>.

²⁶⁶ Q.D.S (*Quwat Al Da'am Al Sari*). FFMS-D-002088; FFMS-D-002085.

²⁶⁷ FFMS-D-002092.

²⁶⁸ FFMS-D-001300.

²⁶⁹ FFMS_A_0027; FFMS_0093.

²⁷⁰ FFMS-D-001724; FFMS_A_0027; Human Rights Watch, "Khartoum is not safe for women! Sexual violence against women and girls in Sudan's capital", 28 July 2024, p 45-46, available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>.

²⁷¹ FFMS-D-001285; FFMS-D-001410; FFMS-D-002105.

including witness testimonies, about rape and gang-rape of men and boys, including but not limited to the context of detention, which call for further investigations.²⁷²

172. In many instances, male and female survivors were subjected to sexual violence because of their alleged support to the opposing party to the conflict, the perceived or real affiliation of their relatives with the opposing party to the conflict, or their perceived or real activity of documenting human rights violations. A source told the Fact-Finding Mission that in Khartoum, the RSF attacked and raped women and girls in their homes while accusing them of supporting the former regime (*kizan*).²⁷³ Other victims of rape in Khartoum or Nyala were suspected of some form of support to the SAF (*aboloda*).²⁷⁴ The Mission also documented several incidents of rape by RSF or their allied militias in Darfur targeting women they knew as human rights defenders and activists.²⁷⁵

173. Rape and other acts of sexual violence against women and girls were also perpetrated for opportunistic reasons, in a context of impunity, highly militarized urban areas, massive and recurring displacements of populations, where increasingly impoverished communities face acute food insecurity and the absence of basic services in most parts of the country.

Number of victims

174. There are no comprehensive statistics on conflict-related sexual violence in the Sudan. It is estimated that thousands of women, girls, men and boys have been subjected to conflict-related sexual violence through successive conflicts since 2003.²⁷⁶ As of September 2023, 136 cases of sexual violence had been reported to the Combating Violence Against Women Unit (CVAW) in the Sudan, “68 of which were recorded in Khartoum State, while the rest of the cases were distributed in the states of South and West Darfur”.²⁷⁷ In January 2024, the Panel of Experts on the Sudan reported that “reliable sexual and gender-based violence local monitors had reported 262 rape cases over the period from April to August [2023]” in “RSF controlled areas in north El Fasher (27), Kutum (19), Tawilah (8), El Geneina (63) and Nyala (145)”.²⁷⁸ In September 2024, the Office of the High Commissioner for Human Rights reported it had “documented 97 incidents of sexual violence in the context of the conflict, involving 172 victims, predominantly women and girls”.²⁷⁹

175. Based on a review of credible open and confidential sources, the Fact-Finding Mission estimates that at least 400 survivors of conflict-related sexual violence, almost exclusively women and girls, were registered by hospitals and/or service providers and referred to some form of support in the Sudan from the start of the conflict to July 2024.²⁸⁰ These figures only account for cases that could be verified through referral, most of the time for the provision of medical and psychological support. While some of the data may overlap, it is safe to assume that this figure only represents the tip of the iceberg with most cases going unreported and the total figure being significantly higher.²⁸¹ As a witness told the Fact-Finding Mission,

²⁷² FFMS_A_0027; FFMS_0090.

²⁷³ FFMS-D-002164.

²⁷⁴ FFMS-D-000056; FFMS-D-001300.

²⁷⁵ See paras. 196-197 of this report.

²⁷⁶ “Based on counts of UN official reports from 2006 to 2020, in which reported case numbers were provided, it is estimated that there have been tens of thousands of victims in the 2002-20 conflict, if not more” (p18). https://www.rightsforpeace.org/_files/ugd/33dd6b_0e7659bc3b1c472898cb2211ed5d5ace.pdf.

²⁷⁷ Sudan Tribune, *Wartime rape and sexual violence cases reach 136 in Sudan*, 24 September 2023. (<https://sudantribune.com/article277612/>). According to a Redress report, the cases registered by CVAW, in the words of CVAW’s director, were likely to “represent approximately 2% of actual numbers”. Redress, *Ruining a country, devastating its people: accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, 2023, p 23.

²⁷⁸ S/2024/65, 15 January 2024, para. 65.

²⁷⁹ Speech of the Deputy High Commissioner for Human Rights at the Enhanced Interactive Dialogue on the Sudan, 57th session of the Human Rights Council, 10 September 2024, available at: <https://reliefweb.int/report/sudan/sudan-tragedy-needs-end-now-urges-deputy-high-commissioner>.

²⁸⁰ FFMS-D-001724; FFMS-D-002163; FFMS_0093; FFMS_A_0027; FFMS_0095.

²⁸¹ FFMS-D-002164; Redress, *Ruining a country, devastating its people: accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, 2023, p24 available at: <https://redress.org/publication/ruining-a-country-devastating-its-people/>.

*“We know that the moment this war ends or the ceasefire happens, we will find out more horrific acts [of sexual violence] that were not reported or did not access services”.*²⁸²

176. Sexual violence, and rape in particular, in the Sudanese society remains largely unreported. It is surrounded by a culture of silence due to the stigma, and exposes victims to social isolation, and in some cases, killing.²⁸³ The societal shame is compounded by domestic legislation that puts an excessive burden on the victim if she wants to file a case or access abortion.²⁸⁴ With the eruption of the conflict in mid-April 2023, these social and administrative barriers to reporting sexual violence were aggravated by heightened insecurity, in particular for women and girls, multiple displacements, frequent communication blackouts and the collapse of the health system in several parts of the country, which further hampered the possibilities for survivors of sexual violence to report an incident and receive some support.²⁸⁵

Patterns of sexual violence

“[during the previous conflict] the Janjaweed used to rape women outside the cities but not inside the cities. It was surprising for people to see cases of rape happening inside their own homes. In addition, RSF prayed in the mosques and told the men that they [the RSF] are here to bring reassurances and democracy and get rid of the remnants of the former Islamist regime. But then they would settle in the neighborhoods and rape the women”²⁸⁶
-A member of civil society from South Darfur

Sexual violence in the context of attacks on civilians

177. The Fact-Finding Mission found that sexual violence was perpetrated on a large scale in the context of attacks of cities in West Darfur. Interviews with victims, witnesses and other credible sources confirmed that similar patterns of widespread rape and gang-rape had been perpetrated by the RSF during attacks on cities and sites for IDPs in South Darfur²⁸⁷, Central Darfur²⁸⁸, and Greater Khartoum²⁸⁹, in 2023. Alarming reports depicting similar trends have emerged after the RSF progressive takeover of Gezira state.²⁹⁰ Several witnesses consider it a tactic of warfare to terrorize families and force them out of their homes.²⁹¹

178. The Fact-Finding Mission interviewed numerous victims and witnesses of sexual violence incidents that occurred during attacks on El Geneina from mid-April to mid-June 2023, and Ardamata, in November 2023. Victims recounted being attacked in their homes, beaten, lashed and threatened with death or harm to their relatives or children, before being raped often by more than one perpetrator. They were also subjected to sexual violence while seeking shelter from attacks or fleeing.

²⁸² FFMS-D-002164.

²⁸³ FFMS-D-001724.

²⁸⁴ See paras.206-207 of this report.

²⁸⁵ See paras. 211-215 of this report; See also <https://www.unfpa.org/press/sudan-top-un-officials-sound-alarm-spike-violence-against-women-and-girls>.

²⁸⁶ FFMS-D-002163.

²⁸⁷ FFMS-D-002163.

²⁸⁸ FFMS-D-002165, FFMS-D-001425.

²⁸⁹ FFMS-D-001738; FFMS-D-000056; FFMS-D-002127; FFMS-D-001302; FFMS_0094.

²⁹⁰ Strategic Initiative for Women in the Horn of Africa (SIHA), “Gezira state and the forgotten atrocities. A report on conflict-related sexual violence”, June 2024, available at: <https://sihanet.org/wp-content/uploads/2024/07/Research-Report-on-CRSV-in-Gezira-State.pdf>

²⁹¹ FFMS-D-002163; FFMS_A_0419. International NGO Doctors Without Borders raised the alarm in a report published on 22 July 2024: “Data from MSF facilities supporting Sudanese refugees in Chad hint at the widespread use of sexual violence as a form of warfare, particularly targeting women and girls. Between July and December 2023, 135 survivors turned to our teams in Adré (Chad), disclosing cases of rape, abduction, and exploitation perpetrated in Sudan during the conflict. In 90% of cases, perpetrators were armed men” available at: <https://www.msf.org/war-people-human-cost-conflict-and-violence-sudanL>

179. Data sets compiled by confidential sources and reviewed by the Fact-Finding Mission show that incidences of rape and other forms of sexual violence increased in the weeks following major RSF attacks in West Darfur, South Darfur, Khartoum and Gezira states. For instance, one source recorded 175 cases of conflict-related sexual violence in El Geneina and Nyala alone from mid-April to late May 2023, all attributed to RSF;²⁹² another source verified 63 cases of conflict-related sexual violence in Khartoum, between May 2023 and July 2024, 40 of which occurred between mid-April and late July 2023, including 36 cases attributed to RSF;²⁹³ and another one reported that more than 40 percent of the cases recorded between 15 December 2023 and April 2024 occurred in Gezira state.²⁹⁴

180. Based on interviews with survivors and first-line responders, vaginal single and multiple-perpetrator rape has been the most documented type of sexual violence. Other acts of sexual violence, including anal rape or rape with body parts, notably fingers, were also reported to the Fact-Finding Mission and sometimes referred to by victims or witnesses as sexual harassment.²⁹⁵ A witness explained that in the Sudanese society, rape is often only considered when the penis is penetrating the vagina of the victim, and the hymen is broken, in case of a first intercourse, with other types of sexual penetration considered “sexual harassment”.²⁹⁶ A survivor told the Fact-Finding Mission that a post-rape medical examination revealed that she had rectum injuries, which made her think that she had also been subjected to anal rape after she fell unconscious during an incident of gang rape.²⁹⁷ The Fact-Finding Mission also documented incidents of forced nudity and beatings on genitals in the context of detention.²⁹⁸

181. Victims and witnesses consistently reported that perpetrators threatened them with weapons, including firearms, knives and whips to intimidate and coerce them.²⁹⁹ Victims were often subjected to other forms of violence, such as punching, beatings with sticks and lashing, before and during the rape, to deter resistance, or punish them for resisting.³⁰⁰ A woman who was visibly pregnant described being threatened with death, and violently punched and lashed with an electrical cable by the *Janjaweed* because she refused to undress and lay down to be raped. Following the ordeal, she suffered a miscarriage.³⁰¹

182. The Fact-Finding Mission documented the widespread use of racist slurs, referring to specific (non-Arab) ethnicity, darker skin colour (*zurga* or *nuba* for “black”), and associated with pejorative attributes (*umbay* for “slave”), during incidents of sexual violence, indicative that ethnicity was a basis for discrimination, often entailing more violent assault, as well as a basis for targeting victims.³⁰² In West Darfur, two Masalit rape survivors reported that *Janjaweed* perpetrators made explicit their intent to make them pregnant. One survivor heard them saying: “*this year, all girls must be pregnant by the Janjaweed.*”³⁰³

183. Witnesses and victims have also reported the widespread use of gender-based derogatory language, including being called prostitutes for the pleasure of the army, or implying that “liberal women” should enjoy being sexually assaulted, that the assault would make the victim sexually satisfied.³⁰⁴

184. Female human rights defenders, activists, journalists and medical professionals have also been targeted with sexual violence.³⁰⁵ While the intersecting of ethnicity and gender, and

²⁹² FFMS-D-002163.

²⁹³ FFMS_A_0027.

²⁹⁴ FFMS_0095.

²⁹⁵ FFMS-D-000056; FFMS-D-002091.

²⁹⁶ FFMS_A_0027.

²⁹⁷ FFMS-D-002088.

²⁹⁸ See para. 198 of this report.

²⁹⁹ FFMS-D-002102; FFMS-D-002103; FFMS-D-002088; FFMS-D-002100; FFMS-D-002096; FFMS-D-002089; FFMS-D-001738; FFMS-D-001728.

³⁰⁰ FFMS-D-002102; FFMS-D-002088; FFMS-D-002100; FFMS-D-001728; FFMS-D-002092; FFMS_0094.

³⁰¹ FFMS-D-002092.

³⁰² FFMS-D-002088; FFMS-D-002100; FFMS-D-002089; FFMS-D-001285; FFMS-D-001946; FFMS-D-001300; FFMS_0094.

³⁰³ FFMS-D-002101; FFMS-D-002096.

³⁰⁴ FFMS-D-000056; FFMS-D-002164; FFMS-D-002101; FFMS_0094.

³⁰⁵ See paras. 196-197 of this report.

of gender and activism have previously been highlighted in the context of violence against women in Sudan,³⁰⁶ the intersecting of all three could be further investigated in relation to patterns of conflict-related sexual violence in the current conflict.

Rape and other acts of sexual violence during attacks on homes

185. Rape and attempted rape occurred in the homes of the victims, or sometimes at a neighbour's house, in the context of violent attacks on specific neighborhoods involving killings, abductions, looting, and torching of houses, as well as in the context of house searches for weapons, ammunition, and male relatives.³⁰⁷

186. In many cases, sexual violence involved multiple perpetrators taking turns in raping the victim, with co-perpetrators standing watch or immobilizing the victim, while other attackers were looting the house or keeping family members, including young children, at gunpoint.³⁰⁸

187. Sexual violence often occurred in the presence of the relatives of the victims and was associated with acts of violence against them, such as lashing and beating.³⁰⁹ One survivor from West Darfur was threatened that all the men sheltering in the house would be killed if she did not lie down to be raped.³¹⁰ In a few cases, the intervention of a relative was successful in averting the rape of the victims, for instance in exchange of valuables.³¹¹ However, in several other cases, family members were verbally threatened, shot at, beaten or lashed when trying to intervene.³¹² Another woman explained that a *Janjaweed* violently hit her mother on the head and on the back, as her mother tried to protect her daughter from being taken away to be raped.³¹³

188. The majority of the incidents documented by the Fact-Finding Mission involved one victim and one or several perpetrators. However, in some incidents, several women and/or girls were sexually assaulted during the same house raid, compounding the humiliation and trauma of the rape with the agony of not having been able to protect a loved one. A survivor from South Darfur reported that she was raped when trying to prevent the rape of her minor daughter, during an RSF incursion in their home, in the presence of her remaining children.³¹⁴ In another incident, in Khartoum state, all three female relatives sheltering in a house were raped and beaten during an RSF incursion, in front of their children.³¹⁵

Rape and other acts of sexual violence against women and girls fleeing attacks

189. In addition to being subjected to sexual violence during raids on homes, the Fact-Finding Mission also obtained evidence of women and girls being subjected to rape and other forms of sexual violence while seeking shelter from attacks or fleeing areas under attack. A woman described how, in the hours following the killing of the Governor of West Darfur in El Geneina, the RSF and its allied militias attacked different neighbourhoods of El Geneina and she was separated from her relatives as they fled in different directions. Isolated, she joined other civilians who sought shelter in an abandoned house, which was soon invaded by the RSF and *Janjaweed*. She was taken aside and raped by one of them, who threatened to kill her with his weapon if she resisted.³¹⁶

³⁰⁶ Reem Abbas, "Bring back the public order lashings?", Blog post for the CHR. Michelsen Institute., 2021, available at: <https://www.cmi.no/publications/7443-bring-back-the-public-order-lashings>.

³⁰⁷ FFMS-D-001300; FFMS-D-001728; FFMS-D-001738; FFMS-D-001727; FFMS-D-002104; FFMS-D-002124; FFMS-D-002089; FFMS-D-002088; FFMS-D-002102; FFMS-D-002103; FFMS_0094.

³⁰⁸ FFMS-D-002102; FFMS-D-002088; FFMS-D-001738; FFMS-D-001727; FFMS_0094.

³⁰⁹ FFMS-D-002102; FFMS-D-002089; FFMS-D-001300; FFMS-D-001727; FFMS-D-001728; FFMS_0094.

³¹⁰ FFMS-D-002089.

³¹¹ FFMS-D-002095; FFMS-D-002086; FFMS-D-002091.

³¹² FFMS-D-002089; FFMS-D-001727.

³¹³ FFMS-D-002092.

³¹⁴ FFMS-D-001728.

³¹⁵ FFMS_0094.

³¹⁶ FFMS_0094.

190. The Fact-Finding Mission collected corroborating testimonies of sexual and gender-based violence perpetrated by the RSF and other armed men identified as *Janjaweed* along the road from El Geneina to Adré, Chad, particularly in the context of large displacements of civilians fleeing the violence after the killing of the Governor of West Darfur. A woman who fled El Geneina after the killing of the Governor told the Fact-Finding Mission that groups of RSF members were present along the road between El Geneina to Adré. She and a female relative went through multiple sexual violence incidents, including one rape attempt and several body searches involving groping of breasts, groin and vaginal penetration with fingers. She witnessed several women subjected to the same violence, as well as the rape of a woman by a man she identified as an RSF member, surrounded by other RSF members, in plain sight by the main road.³¹⁷ Another woman who was subjected to gang rape on the road from El Geneina to Adré in June 2023, reported that she was attacked together with three other women, by armed men in RSF uniforms and in traditional outfits speaking colloquial Arabic, while the women had sought shelter in an empty house. The women were separated, as groups of armed men each selected a woman and took her away.³¹⁸

Abductions and sexual slavery

191. United Nations human rights entities and civil society organizations have expressed their concern and alarm over reports of abductions of women and girls, and their detention in conditions that were tantamount to enslavement, in areas of Darfur controlled by the RSF, and highlighted the increased risk of enforced disappearance and trafficking in persons to which women, children, internally displaced persons and refugees were particularly exposed.³¹⁹

192. As of mid-December 2023, the Office of the High Commissioner for Human Rights had documented eight incidents of sexual violence in the context of abductions, with victims “held sometimes in inhuman conditions and subjected to ill-treatment.”³²⁰ As of April 2024, 990 persons were reported missing and considered forcibly disappeared since the start of the conflict, according to the Sudanese Missing People Initiative, including 95 women and at least 50 children.³²¹

193. The Fact-Finding Mission documented two incidents in West Darfur and Khartoum states, in which women were abducted and held by armed men in RSF uniform for durations ranging from four days to more than eight months, and subjected to consecutive rapes, including gang-rape. Both were abducted from the street, into a vehicle, and driven to another location in the same State. In one case, the victim was held in detention-like conditions, in a room with no access nor communication to the outside, and depended on her captors for food, water and access to the washrooms. She was raped several times by different RSF members over the course of her detention and threatened with death.³²² In the other case, the victim was told by her captor, an RSF member, that she was his wife and was forced to remain in his house under the watch of several guards. She was threatened with death in case she

³¹⁷ FFMS-D-002091.

³¹⁸ FFMS_0094.

³¹⁹ OHCHR, “Sudan: Women and girls abducted, held ‘in slave-like conditions’ in Darfur”, 3 November 2023, available at : <https://news.un.org/en/story/2023/11/1143177> ; Press Release of the Special Procedures, “Sudan: Trafficking for sexual exploitation and recruitment of children on the rise, warn UN experts”, 22 March 2024, available at: <https://www.ohchr.org/en/press-releases/2024/03/sudan-trafficking-sexual-exploitation-and-recruitment-children-rise-warn-un>; African Centre for Justice and Peace Studies, “Sexual slavery in Khor Jahannam”, 13 January 2024, available at: <https://www.acjps.org/publications/sexual-slavery-in-khor-jahannam>; Strategic Initiative for Women in the Horn of Africa (SIHA), “Sudan women and girls at ongoing risk of abduction and enforced disappearance”, 23 January 2024, available at: <https://sihanet.org/sudan-women-and-girls-at-ongoing-risk-of-abduction-and-enforced-disappearance/>.

³²⁰ OHCHR, “Annual Report of the Office of the High Commissioner for Human Rights: Situation of Human Rights in Sudan,” A/HRC/55/29, 4 March 2024, <https://digitallibrary.un.org/record/4045183/>.

³²¹ <https://www.dabangasudan.org/en/all-news/article/at-least-990-cases-of-enforced-disappearance-in-sudan-conflic.t>

³²² FFMS-D-002119.

refused to stay and was beaten anytime she resisted sexual intercourse. She became pregnant as a result of the rapes but was never allowed to see a doctor in the course of the pregnancy.³²³

194. In addition, the Fact-Finding Mission received credible testimonies about similar incidents, including one of a woman abducted from a road in South Darfur and held in a room in a house where she was raped multiple times during three days by men wearing RSF uniforms.³²⁴ Other sources reported that in July 2023, in a neighbourhood of Khartoum, several women and girls were abducted and subjected to sexual violence by RSF members before being released.³²⁵ Several victims of abductions reported hearing other women screaming or crying in the place where they were held.³²⁶ In at least one of the cases, the victim was released following the visit of an RSF member whom she thought must have been an officer, as he ordered soldiers to release her after inquiring about her situation.³²⁷

195. Victims and witnesses also described four separate incidents during which women were abducted from the street and taken to a house or a more remote location, where they were physically assaulted, beaten and raped, by RSF or *Janjaweed*, before being released or abandoned unconscious in the street.³²⁸ Witnesses also described how young women and girls were abducted by the RSF on board of pick-up vehicles at a checkpoint in Al Naseem neighborhood while fleeing from El Geneina to Ardamata in the aftermath of the Governor's death, in June 2023.³²⁹ Another woman described seeing the RSF and *Janjaweed* abducting girls into their vehicles while she was fleeing from Ardamata in November 2023.³³⁰ The victims were taken to an unknown destination where, witnesses believed, they would be exposed to sexual violence.

Targeting of women activists

196. Several women appear to have been targeted with sexual violence to punish them for their professional or volunteer activities as human rights defenders, lawyers, journalists or medical personnel, often being perceived as reporting on violations and/or supporting the enemy. While victims generally did not know the perpetrators, the latter gave clear indications that they knew the victims' occupation, and in several cases, that they had been following or looking for them specifically.³³¹ A woman activist gang-raped by RSF and its allied militias recalled the perpetrators saying: "*we have been searching for you, [organization members] [...] tonight you will see something*".³³²

197. In several cases activism and gender intersected with ethnicity, notably during the attacks of El Geneina and Ardamata in West Darfur, with Masalit women rights defenders, journalists and medical professionals being specifically targeted.³³³ A Masalit survivor told the Fact-Finding Mission that she was attacked because of her human rights activism: she was gang-raped by several *Janjaweed* who also proceeded to severely beat her, while saying: "*You deserve this. We should do even more. We should rape you with the stick*".³³⁴ Another Masalit survivor, who has medical background reported that RSF members told her: "*Our*

³²³ FFMS-D-002090.

³²⁴ FFMS-D-001729.

³²⁵ FFMS-D-000056; FFMS-D-002164; Human Rights Watch, "Khartoum is not safe for women! Sexual violence against women and girls in Sudan's capital", 28 July 2024, available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>.

³²⁶ FFMS-D-001729; FFMS-D-002119; FFMS_0094.

³²⁷ FFMS_0094.

³²⁸ FFMS-D-000056; FFMS_0094.

³²⁹ FFMS-D-002088; FFMS-D-002083.

³³⁰ FFMS-D-002097.

³³¹ FFMS-D-000056; FFMS-D-002102; FFMS-D-002088; FFMS_0094.

³³² FFMS_0094.

³³³ FFMS-D-002102; FFMS-D-002088; FFMS_0094.

³³⁴ FFMS-D-002102.

doctor where are you going? [...] Come here, criminal!" after they searched her bag and found her medical attire, before they sexually assaulted her.³³⁵

Sexual violence in detention

198. The Fact-Finding Mission found that men and boys were exposed to sexual violence in detention, including the use of rape, rape threats, forced nudity and beatings on their genitals as a form of ill-treatment or torture. A male victim interviewed by the Fact-Finding Mission described how he was threatened with rape by RSF soldiers wearing khaki uniforms, while being completely naked and subjected to beatings with electric rods and lashing, including on his genitals, before interrogation. *"We could rape you just like we have raped others before you"*.³³⁶ Another male victim who spent four months in another RSF detention centre reported being threatened with rape during multiple interrogation sessions: *"if you do not admit we have people who will have sex with you"*.³³⁷ Both victims also reported their interactions with younger male detainees whom they assessed to be below the age of 18 years, who either declared that they had been raped, or showed signs indicative of rape. The Fact-Finding Mission has also received credible allegations of gang rape of men detained by the RSF,³³⁸ as well as of sexual exploitation of women detained by SAF Military Intelligence.³³⁹

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

Other areas requiring further investigation

200. The Fact-Finding Mission has reviewed credible information about the increasing number of forced marriages of girls and women to RSF members, with parents surrendering their daughters in exchange for financial compensation or under threat.³⁴⁰ Other reports have highlighted the increased risk of women and girls engaging in survival sex to access food or humanitarian assistance, in a context of acute food insecurity.³⁴¹ The Fact-Finding Mission recommends further investigation to verify and document these allegations and the nexus between denial of access to/obstruction to humanitarian aid, acute food insecurity/famine and sexual and gender-based violence, in the Sudanese context.

³³⁵ FFMS-D-002088.

³³⁶ FFMS-D-001285.

³³⁷ FFMS-D-001410.

³³⁸ FFMS_0090.

³³⁹ FFMS-D-002105.

³⁴⁰ FFMS-D-001301; FFMS-D-002127; FFMS_0093, Strategic Initiative for Women in the Horn of Africa (SIHA), *Silent weapons, loudest wounds: addressing the crisis of sexual violence in Sudan*, March 2024, available at: <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2023/10/report/silent-weapons-loudest-wounds-addressing-the-crisis-of-sexual-violence-in-sudan/sudan-report.pdf>.

³⁴¹ <https://www.theguardian.com/world/article/2024/jul/22/women-forced-to-have-sex-with-soldiers-for-food-in-sudanese-city>; CARE, *Because They Are Women: How the Sudan conflict has created a war on women and girls*, Advocacy Brief, 2024, available at: <https://www.careimages.org/pages/download.php?direct=1&noattach=true&ref=112940&ext=pdf&k=655c7f529a>.

201. The Fact-Finding Mission shares the concerns expressed by United Nations Special Procedures regarding “reports of women and girls being sold at slave markets in areas controlled by RSF forces and other armed groups, including in North Darfur”.³⁴² At the time of reporting, the Fact-Finding Mission was not able to corroborate these allegations but recommends further investigations, especially since the Fact-Finding Mission was able to verify the existence of practices of abduction for sexual exploitation purposes amounting to sexual slavery within RSF forces.

Consequences of sexual violence

202. In their harrowing testimonies, survivors of rape shed light on the enduring and multifaceted impacts of sexual violence, not only on their own physical and mental health but also on the well-being of their families and communities. Survivors of sexual violence in the Sudan continue to face societal stigma that hold them, and their families, responsible for the violence inflicted upon them. This victim-blaming culture exacerbates the trauma and hinders survivors from seeking help.

Impact on survivors’ health

203. Women survivors of sexual violence frequently told the Fact-Finding Mission that they endure long-lasting effects from the assault, including chronic pain in the lower back and lower abdomen.³⁴³ Many women were beaten before or during the rape, and some had broken bones, while others developed severe headaches from violent blows to their heads. A survivor reported that the assault aggravated her existing poor health condition caused by conflict-induced stress and a lack of access to sufficient food.³⁴⁴

204. The impact of violent rapes on survivors’ sexual and reproductive health is important and carries long-term family and social consequences. Survivors reported frequent gynecological or urinary infections and painful menstruations.³⁴⁵ One victim who was five months pregnant suffered a miscarriage as a result of the severe ill-treatment she was subjected to, during a rape attempt.³⁴⁶ Another survivor, who did not have a child yet at the time of the assault, was told by a doctor that the injuries she suffered would make it difficult for her to conceive.³⁴⁷

205. Almost all women spoke of continuous bleeding in the aftermath of the rape,³⁴⁸ and in several cases, required an urgent medical intervention, which was not always available. The Fact-Finding Mission documented the case of a woman who appear to have died from bleeding following a gang-rape by alleged RSF soldiers, because she could not access lifesaving treatment, as her family struggled to gather the necessary financial means for it.³⁴⁹ In another case, a survivor had to receive a blood transfusion before undergoing a long surgery to repair an extensive tear, provoked by violent rape.³⁵⁰ Medical sources interviewed by the Fact-Finding Mission confirmed that vaginal tears and bruises were the most frequent injuries reported by medical personnel assisting victims of sexual violence.³⁵¹ In addition, the practice of female genital mutilation (FGM) remains widespread in the Sudan and can aggravate physical damage sustained because of rape. According to the United Nations, in 2020, more than 86% of girls and women between 15 and 49 years old in the Sudan were

³⁴² <https://www.ohchr.org/en/press-releases/2024/03/sudan-trafficking-sexual-exploitation-and-recruitment-children-rise-warn-un>. <https://www.state.gov/reports/2024-trafficking-in-persons-report/sudan/>

³⁴³ FFMS_0094; FFMS-D-002089; FFMS-D-002096.

³⁴⁴ FFMS_0094.

³⁴⁵ FFMS_0094; FFMS-D-002089; FFMS-D-002096.

³⁴⁶ FFMS-D-002092.

³⁴⁷ FFMS-D-002088.

³⁴⁸ FFMS_0094.

³⁴⁹ FFMS-D-002120.

³⁵⁰ FFMS-D-000056.

³⁵¹ FFMS-D-001724.

affected by FGM, including the type commonly referred to as infibulation; one of the highest rates in the world.³⁵²

Pregnancies and the right to abortion

206. The high prevalence of rape combined with a lack of access to, or unavailability of, sexual and reproductive health services have, according to civil society and service providers, led to numerous unwanted pregnancies. It is however hard to estimate how many victims are affected because of the stigma deterring them from disclosing their situation.³⁵³ In November 2023, the gender-based violence (GBV) sub-cluster in the Sudan reported an increase in the number of unmarried pregnant women seeking GBV and sexual and reproductive health services in IDP-hosting states, the majority of whom were pregnant as the result of rape.³⁵⁴ Women and girls found to be pregnant out of marriage face rejection from their families and communities, adding considerable socioeconomic vulnerability to the long-lasting trauma of the violence.³⁵⁵ Research indeed indicates that “women and girls who have children born of sexual violence tend to suffer a *higher* level of social stigmatisation and face *broader, different* challenges to victim-survivors without children”.³⁵⁶ Besides, children born from conflict-related sexual violence are exposed to a range of grave violations including infanticide and abandonment, intersecting and multiple forms of discrimination affecting their rights and further contributing to their marginalization.³⁵⁷ They are also exposed to intergenerational transmission of trauma from their mother.³⁵⁸

207. Survivors of sexual violence in the Sudan also face many challenges to exercise their right to a safe termination of a pregnancy resulting from rape. Under Sudanese law, abortions following rape are legal only within 90 days of pregnancy.³⁵⁹ Survivors must also obtain permission from the Office of the Prosecutor for a legal abortion in a public or private hospital. The law requires survivors to report the rape to the police, and obtain a *Form 8*,³⁶⁰

³⁵² According to a UNFPA qualitative assessment of gender-based violence in Sudan in 2020, 32% of the girls of 14 years old or less, and 87% of women and girls between 15 and 49 years old were affected by female genital mutilations (<https://sudan.unfpa.org/en/publications/voices-sudan-2020-qualitative-assessment-gender-based-violence-sudan>). These figures however illustrate a decrease in the practice among younger girls, resulting from the efforts done to abandon female genital mutilation, including through their criminalization in July 2020 (<https://www.unicef.org/sudan/reports/female-genital-mutilation-fgm-among-girls-sudan>) and a country multisectoral programme led by WHO jointly with UNICEF and UNFPA (<https://www.who.int/news-room/feature-stories/detail/working-towards-zero-tolerance-for-female-genital-mutilation-in-sudan>).

³⁵³ <https://sihanet.org/the-aftermath-of-rape-unwanted-pregnancies-and-abandoned-children/>. According to a 2022 report from the United Nations Secretary General on this issue, “In the Sudan, the Government’s Unit for Combating Violence against Women and Children collected more than 3,000 cases of children born of rape in South and East Darfur since 2015”. (Women and girls who become pregnant as a result of sexual violence in conflict and children born of sexual violence in conflict, 31 January 2022, S/2022/77, para 6).

³⁵⁴ <https://reliefweb.int/report/sudan/sudan-current-context-and-concerning-gbv-trends-trends-analysis-and-situational-update-29-november-2023>

³⁵⁵ <https://www.thestateofwomen.org/impact/5577>.

³⁵⁶ Joanne Neenan, Closing the protection gap for children born of war: Addressing stigmatisation and the intergenerational impact, Center for Women, Peace and Security Research at LSE, 2019, p. 23-24, available at: <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/04/report/closing-the-protection-gap-for-children-born-of-war/WPS-Children-Born-of-War.pdf>

³⁵⁷ Women and girls who become pregnant as a result of sexual violence in conflict and children born of sexual violence in conflict, 31 January 2022, S/2022/77, para. 15-17; Ensuring prevention, protection and assistance for children born of conflict related rape and their mothers: Joint Statement by CEDAW and CRC, November 2021 (<https://reliefweb.int/report/world/ensuring-prevention-protection-and-assistance-children-born-conflict-related-rape-and-their-mothers#:~:text=Joint%20Statement%20by%20CEDAW%20and%20CRC&text=In%20this%20regard%2C%20the%20Committees,conflict%20transition%20within%20a%20State.>)

³⁵⁸ Joanne Neenan, *ibid.*

³⁵⁹ Article 135 of the Criminal Act (1991).

³⁶⁰ Form 8 (sample copy on file with the FFMS) is a one-page reporting document produced by the Ministry of Justice of Sudan to record physical injuries related to criminal acts such as sexual violence or torture (<https://reliefweb.int/report/sudan/sudan-form-8-advocacy-strategy-women-survivors-rape-receive-medical-care-and-justice>). Its use poses many challenges, including a lack of compliance with international standards of documentation of torture and conflict-related sexual violence, unavailability of copies of the form in rural areas, lack

which they must submit for completion by a medical practitioner to record the medical evidence of physical injuries resulting from the rape.³⁶¹ The completed form must subsequently be presented to the Office of the Prosecutor, for a decision on the request for abortion. This procedure, which has generally been considered as an excessive and difficult legal requirement to obtaining legal abortion after rape, has been aggravated by the general breakdown of rule of law institutions,³⁶² and the destruction of medical infrastructures, increasing confusion about procedures among health workers.³⁶³ A source interviewed by the Fact-Finding Mission believed that some survivors who could not obtain legal access to abortion services have resorted to unsafe methods outside healthcare facilities.³⁶⁴

Stigmatization and trauma

208. Survivors have described their social isolation, often self-imposed, because of the shame they believe to have brought onto their families, their unsuitability for marriage, and their incompleteness as women in society.³⁶⁵ One survivor explained: “*Our society sees girls who [were raped] as shameful, [the victim] should not talk about it. They are seen [as] unfit for marriage. When people gather, they talk about her.*”³⁶⁶

209. Isolation and stigma amplify the challenges of coping with the aftermath of the assault. Many survivors do not receive the necessary psychological care, which increases their vulnerability to suicidal thoughts. Several women explained how they had resisted rape, often at great cost in terms of physical injuries, and asked the perpetrators to kill them instead.³⁶⁷ A few survivors declared that they wished they had died during the assault.³⁶⁸ In late November 2023, the Gender-Based Violence sub-sector in the Sudan reported on a concerning trend of suicidal thoughts and attempts amongst survivors of sexual violence.³⁶⁹ Fear for their life or their children’s lives, trauma and shame drove most survivors the Fact-Finding Mission spoke with to displacement, primarily seeking refuge in a neighboring country.³⁷⁰

of training of the law enforcement officials and medical practitioners supposed to complete or use it. Additionally human rights NGOs have alerted on the risk of Form 8 being used as evidence in adultery charges brought against the survivor in case of unsuccessful legal proceedings against the perpetrator of sexual violence. For details see Redress, Submission to the UN Special Rapporteur on Torture: Reparation sur Survivors of Conflict-Related Sexual Violence, 2024, para 15, <https://redress.org/publication/submission-reparation-for-survivors-of-conflict-related-sexual-violence/>

³⁶¹ Human Rights Watch, “Khartoum is not safe for women! Sexual violence against women and girls in Sudan’s capital”, 28 July 2024, available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>.

³⁶² OHCHR, “Annual Report of the Office of the High Commissioner for Human Rights: Situation of Human Rights in Sudan,” A/HRC/55/29, 4 March 2024, <https://digitallibrary.un.org/record/4045183/> para. 87; <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital> Redress, Submission to the UN Special Rapporteur on Torture: Reparation sur Survivors of Conflict-Related Sexual Violence, 2024, para 15, <https://redress.org/publication/submission-reparation-for-survivors-of-conflict-related-sexual-violence/>.

³⁶³ Human Rights Watch, “Khartoum is not safe for women! Sexual violence against women and girls in Sudan’s capital”, 28 July 2024, p70 available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital> ; <https://www.dabangasudan.org/en/all-news/article/interview-campaigners-call-for-changes-to-sudan-rape-legislation>.

³⁶⁴ FFMS_A_0027.

³⁶⁵ FFMS_0094.

³⁶⁶ FFMS_0094.

³⁶⁷ FFMS-D-002089; FFMS-D-002092.

³⁶⁸ FFMS-D-002092.

³⁶⁹ “*Among the GBV survivors in conflict-affected areas and IDP settings, service providers have reported that it is common for GBV survivors to express suicidal thoughts. Girls are particularly at risk, with a number of suicide attempts by girls reported in IDP sites*”, Sudan - The Current Context and Concerning GBV Trends: Trends Analysis and Situational Update as of 29 November 2023, GBV Sub-Sector Sudan, available at: https://gbvaor.net/sites/default/files/2023-12/2_Sudan%20GBV%20Trends%20Analysis_GBv%20SS_Nov%2029%202023%20final.pdf.

³⁷⁰ FFMS-D-001729.

210. Children, or relatives, who were present during the sexual assault of a mother, daughter, or sister show signs of post-traumatic stress, such as nightmares and behavioral changes. One survivor described to the Fact-Finding Mission how her children had grown anxious and kept asking: “*Why did this happen to you, mom? Don’t leave us, they are going to beat you, stay with us*”.³⁷¹

Access to services

211. The ongoing conflict has led to the occupation of health facilities, attacks on healthcare workers, and significant restrictions on medical supplies.³⁷² This has made it extremely difficult for survivors to receive timely and necessary treatment.

212. One year into the conflict, UNFPA reported it had distributed 2,880 supplies for the clinical management of rape in the Sudan.³⁷³ Essential medical supplies for post-rape care have, however, been in short supply and sometimes unavailable in Khartoum and the Darfur region, due to a lack of access to the facilities where they were stored, low pre-war stock levels in some states, and attacks on medical warehouses.³⁷⁴ On 9 May 2023, UNFPA reported that “[in Khartoum] *the distribution of [...] life-saving supplies [to cover 19,000 child births and 47,000 reproductive emergencies including the clinical management of rape] to health facilities including referral hospitals and health care providers is not possible at this time due to the absence of safe access to the warehouses. Access to GBV prevention and response services in Khartoum - and across Sudan - is severely curtailed by the ongoing fighting, destruction and looting of health care centres and hospitals*”.³⁷⁵ Faced with a shortage of supplies, doctors in Khartoum developed an alternative protocol for the clinical management of rape, with locally available medications. This “emergency protocol” protected survivors against pregnancies and some sexually transmittable diseases, yet it did not include anti-viral medication against HIV and hepatitis B.³⁷⁶ One witness of medical background told the Fact-Finding Mission she expected that the war would lead to an increase in HIV infections among survivors of sexual violence.³⁷⁷

213. Some survivors reported that they did not go to the hospital because they were ashamed,³⁷⁸ and when they did reach out to services, they provided minimal information on what happened to them, so as to minimize the exposure to stigma and shame.³⁷⁹ A recent report by a human rights NGO described the persisting stigma around receiving sexual and reproductive health services, compounded by a shortage of trained professionals and confidential services caused by the conflict.³⁸⁰ Indeed, as hospitals were besieged, shelled or looted, health professionals evacuated to other health facilities, or fled.³⁸¹ Health professionals sometimes continued to provide care from their homes or from makeshift clinics created to provide emergency care for the injured and support to chronic diseases, at

³⁷¹ FFMS-D-002102.

³⁷² FFMS-D-000056; FFMS-D-002164; FFMS-D-002087. See Section H. of this Chapter. See also Human Rights Watch, “Khartoum is not safe for women! Sexual violence against women and girls in Sudan’s capital”, 28 July 2024, available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>.

³⁷³ https://www.unfpa.org/sites/default/files/resource-pdf/Sudan%20one%20year%20of%20war%20-Sitrep_%20April%202024.pdf

³⁷⁴ https://sudan.unfpa.org/sites/default/files/pub-pdf/unfpa_-_sudan_emergency_situation_report_no.1_1.pdf; FFMS-D-000056; FFMS-D-002164; FFMS-D-002163; FFMS-D-001724.

³⁷⁵ https://sudan.unfpa.org/sites/default/files/pub-pdf/unfpa_-_sudan_emergency_situation_report_no.1_1.pdf.

³⁷⁶ FFMS-D-000056; FFMS-D-002164; Human Rights Watch, “Khartoum is not safe for women! Sexual violence against women and girls in Sudan’s capital”, 28 July 2024, available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>.

³⁷⁷ FFMS_A_0027.

³⁷⁸ FFMS_0094.

³⁷⁹ FFMS-D-002087; FFMS-D-002127; FFMS-D-002163.

³⁸⁰ Human Rights Watch, “Khartoum is not safe for women! Sexual violence against women and girls in Sudan’s capital”, 28 July 2024, available at: <https://www.hrw.org/report/2024/07/28/khartoum-not-safe-women/sexual-violence-against-women-and-girls-sudans-capital>; https://sudan.unfpa.org/sites/default/files/pub-pdf/unfpa_-_sudan_emergency_situation_report_no.1_1.pdf.

³⁸¹ FFMS-D-000056; FFMS-D-001724; FFMS-D-002087.

a great risk of reprisals, with very limited supplies, and lacking trained personnel and specific supplies for the clinical management of rape.³⁸²

214. As health facilities were hard to reach, service providers responded to survivors and their relatives mostly through messages and calls, unless the case required an urgent medical intervention.³⁸³ Repeated displacements and internet and communication outages led to service providers losing contact with survivors, or survivors unable to reach out for support, seriously hampering possibilities of follow-up care.³⁸⁴

215. Emergency Response Rooms (ERR)³⁸⁵ have played a critical role in providing referrals or facilitating access or evacuation of survivors of sexual violence to health care and psychosocial support across the country.³⁸⁶ The Fact-Finding Mission has gathered concerning allegations of sexual violence perpetrated against ERR volunteers while they performed their assistance tasks.³⁸⁷

d. Grave violations against children

216. Children are paying a very heavy toll in the intense fighting that has ravaged the Sudan. According to UNICEF, the conflict has resulted in the highest number of grave child rights violations verified in the country in more than a decade.³⁸⁸ Children have been recruited and used in hostilities, killed, injured, abducted and forcibly displaced, detained with adults, tortured, subjected to sexual violence and deprived of healthcare and education. Many have also witnessed their parents, siblings, friends, or neighbours being subjected to the most heinous crimes, have lost or been separated from their families or caretakers, or have been abandoned at birth after being born out of rape. Besides threatening their very survival, the protracted conflict and the ensuing deterioration of the humanitarian situation are having a devastating impact on their health and development. UNICEF estimates that close to 14 million children are in need of humanitarian assistance, the highest number so far registered in the country. More than half (52 percent) of the 10.7 million IDPs are younger than 18, and 26 percent are less than 5 years old. In the largest part of the country, schools will remain closed for the second consecutive year, converting the war in the Sudan to one of the largest learning crises in the world with close to 18 million children deprived of education.

217. Exposure of children to the level of violence in the Sudan and multiple traumatic events, in the absence of sufficient protective services, will leave deep psychological scars and pose major mental health problems that may hamper the country's long-term prospects for peace and stability. Parents told the Fact-Finding Mission that their children were experiencing intense psychological distress, including chronic stress, anxiety, depression, and symptoms of post-traumatic disorders. Many also expressed great concern at the lack of educational opportunities including in the country of refuge, and the impact it may have on their future.³⁸⁹ Some children have also become the main breadwinners of their families and are compelled to seek a livelihood at a young age.

218. The annual report of the Secretary-General on Children and Armed Conflict lists the SAF and the RSF for committing grave violations of children's rights. The SAF is listed for the killing and maiming of children, and attacks on schools or hospitals. The RSF is listed for recruitment and use of children; killing and maiming; rape and other forms of sexual violence against children; and attacks on schools or hospitals.³⁹⁰ The investigations carried out by the Fact-Finding Mission confirm these findings. In addition, the Fact-Finding

³⁸² FFMS-D-002087; FFMS-D-002119.

³⁸³ FFMS-D-002163; FFMS_A_0027.

³⁸⁴ FFMS_A_0027; FFMS-D-002164.

³⁸⁵ Virtual rooms created to help coordinate support for impacted persons by receiving requests for help from the public via WhatsApp groups and other social media platforms.

³⁸⁶ FFMS-D-002127; FFMS-D-002163; FFMS_A_0027.

³⁸⁷ FFMS-D-002127.

³⁸⁸ UNICEF Humanitarian Situation Report No. 20, 30 July 2024, available at

<https://www.unicef.org/documents/sudan-humanitarian-situation-report-mid-year-2024>.

³⁸⁹ FFMS-D-002102.

³⁹⁰ See A/78/842-S/2024/384, 3 June 2024, para. 356.

Mission received multiple credible reports that SAF has played a role in the training and arming of children who have joined the popular mobilization.

Child recruitment or use of children in hostilities by the warring parties

219. Both international humanitarian law and international human rights law contain provisions on the recruitment into armed forces or groups and use of children in hostilities. While the prohibition to recruit and use children under international humanitarian law applies to children under the age of 15, the OP-CRC-AC raises the age to 18.³⁹¹ The Sudan acceded to the OP-CRC-AC in 2005, under which it declared a minimum age of 18 years for both forced and voluntary recruitment into its armed forces.³⁹² The Sudan is also party to the International Labour Convention on the Worst Forms of Child Labour (No.182) which prohibits the forced or compulsory recruitment of children under 18 for use in armed conflict. The Sudan enacted a corresponding national law that prohibits the recruitment or employment of children under 18 in its armed forces or in armed groups to participate in war.³⁹³ The Sudanese Armed Forces Act of 2007 sets the minimum age of recruitment in the armed forces at 18 and provides for penalties in case of non-compliance.³⁹⁴ The Sudanese criminal legislation does not, however, provide for sanctions in the case of recruitment of children and use in hostilities by armed groups.³⁹⁵

220. The Fact-Finding Mission heard from human rights defenders, community leaders and child rights practitioners on some of the factors that contributed to the recruitment and use of children in hostilities by the warring parties. Interlocutors cited the deprivation of education, protection and defense of the community and family from both the warring parties and inter-communal violence, the desire to seek revenge for the atrocities committed against the family or community, the influence of social environment and tribal customs, the forced displacement and separation from family or caretakers or the search for safety, protection and livelihood amongst the main factors that contributed to children being lured into joining militia, armed groups and forces in the present conflict.³⁹⁶ In addition, as further detailed below, both warring parties relied extensively on youth mobilization to bolster their ranks and demonstrated limited to no control over the age of their recruits despite credible allegations of forgery of birth certificates, particularly in Darfur and rural areas.³⁹⁷

224. The Fact-Finding Mission received credible allegations that children were seen patrolling with the SAF 21st Infantry Division carrying weapons in Zalingei, as well as with the SAF 16th Infantry Division in Nyala in May 2023. Of particular concern is the fact that the SAF leadership has been pursuing alliances with armed groups that have been listed for years in the report of the Secretary-General for the recruitment and use of children in hostilities, including the SLM/ Minnawi and the JEM.³⁹⁸ Both groups have been supporting SAF offensives in Northern Darfur, Khartoum and Gezira under the umbrella of the Darfur Joint Forces.³⁹⁹

³⁹¹ See Section IV on Applicable Law

³⁹² https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-11-b&chapter=4&clang=_en&_gl=1*b8tbzy*_ga*OTMyOTkzODMuMTcwNjU0ODc2Ng..*_ga_TK9BQL5X7Z*M TcyMjA4Mjg4Mi40LjAuMTcyMjA4MjkyOC4wLjAuMA.

³⁹³ Children's Act, 2010, Article 43-1 available (ENG) at <https://www.refworld.org/legal/legislation/natlegbod/2010/en/120375>.

³⁹⁴ Article 14(1) and 176.

³⁹⁵ See CRC/C/OPAC/SDN/CO/1, 8 October 2010, paras 23-24.

³⁹⁶ FFMS_A_0105 and FFMS_A_0463.

³⁹⁷ See <https://www.newarab.com/analysis/are-rsf-recruiting-children-fight-sudans-war>.

³⁹⁸ See A/78/842-S/2024/384, 3 June 2024.

³⁹⁹ See for example <https://sudanwarmonitor.com/p/darfur-joint-force-declares-war-on>, <https://acleddata.com/2024/05/17/sudan-situation-update-may-2024-the-rsf-sets-its-eyes-on-north-darfur/>, <https://sudantribune.com/article284335/>.

Recruitment of children through popular mobilization by the SAF

222. There are credible reports indicating that children have been joining youth groups in the context of popular mobilization “*Istinfar*” that have been trained and armed by the SAF in Khartoum, River Nile, Kassala, Gedaref, Sennar or Red Sea states.⁴⁰⁰

223. On 5 January 2024, at the occasion of the country’s independence anniversary, General Al-Burhan, officially invited groups of youth mobilised “*Mustanfareen*” to join the army. In his speech, he pledged SAF support, including through the provision of weapons, to the civilians seeking to defend themselves against the RSF attacks.⁴⁰¹ One month later, SAF Assistant-Commander-in-Chief, declared at the occasion of the People’s conference party held in Kerery, Omdurman, that:

“[...]In the army, in the national police, in the intelligence service, in the mobilized, in the popular resistance [...], we will train even young children to defend themselves, their people, and their land.”⁴⁰²

224. Following SAF leadership’s support call for mass mobilization to counter RSF’s advances, a significant number of videos exhibiting youth and children under 18 being trained by SAF officers under the umbrella of popular mobilization circulated on social media. The evidence also demonstrated that SAF organized a shooting course for mobilized women and allegedly girls in Gezira.⁴⁰³ The Fact-Finding Mission has also received allegations indicating that additional training camps have been set up in River Nile and Port-Sudan with the participation of girls under 18.

225. At the end of May, following the death of an ex-SAF Lieutenant⁴⁰⁴ executed by the RSF as reported by media while he engaged in fighting under the banner of popular mobilization, General Al-Burhan stated that:

“[...] *three-quarters of the people are now Mustanfareen*” and announced that “[...]we will make an army out of them.”⁴⁰⁵

226. Following this declaration, a new “List of mobilization and popular resistance for the year 2024” was approved by General Al-Burhan on 27 May 2024. Notwithstanding the indicated minimum age of 18,⁴⁰⁶ the Fact-Finding Mission received information indicating that children under 18 were observed manning checkpoints of popular mobilization in SAF controlled areas.⁴⁰⁷ Further investigations are needed to ascertain whether children under 18 have been recruited and used by the SAF under the umbrella of popular mobilization.

Recruitment and use of children by the RSF and allied militias

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

⁴⁰⁰ Confidential Submissions. See e.g., Updated report of Centre for information resilience (Sudan witness) on child recruitment, June 2024. or SHRH-Ayin joint investigation on child soldiers available at <https://sudanhrh.org/en/articles/child-soldiers-in-Sudan-may-2024>.

⁴⁰¹ Individual submission received during the Child rights consultation. Full speech available at https://youtu.be/Q-4W3oroMLY?si=k6o_1lxeaYn8EuuS.

⁴⁰² Full speech available at https://youtu.be/g7A_EBNryMQ?si=b8_XGiX7Kh0PA2AV.

⁴⁰³ See <https://spokesperson-sd.com/ar/archives/17780> published on the website of the Official Spokesperson Platform of the Government of Sudan on 27/07/2024.

⁴⁰⁴ Mohamed Siddiq was a retired SAF Lieutenant who became famous for joining the protestors during the sits-in of 2019. He joined the popular mobilization during the current conflict and was reportedly executed by the RSF in May 2024. See <https://sudantribune.com/article285834/>.

⁴⁰⁵ See <https://sudantribune.net/article285968/>. Speech available at <https://x.com/i/status/1793052373885100279>.

⁴⁰⁶ See the copy posted on social media at https://www.instagram.com/taybasd/p/C7pM0KBMLiG/?img_index=1. See also <https://www.alrakoba.net/?p=31949207>.

⁴⁰⁷ FFMS-D-002129.

228. The RSF and its allied militias have used children as bodyguards, informers, in combat units, to conduct security patrols, man checkpoints, carry out searches, monitor arrestees, pillage, commit arson, as well as commit acts of torture in detention centres.⁴⁰⁸ A number of testimonies further indicate that children associated with the RSF and its allied militias were used to torture and record scenes of crimes and post them on social media.⁴⁰⁹ Eyewitnesses have reported that some children were dressed in RSF uniforms, with some bearing ranks.

229. During the attacks against the civilian population in El Geneina, some children could clearly be identified as associated with the RSF, but for others, especially those in civilian clothes, it was less clear whether they were associated with the RSF or any of its allied militias including the Third-Front Tamazuj. According to the United Nations Secretary-General, out of 209 incidents of child recruitment verified in the Sudan in 2023, close to 80 percent are attributed to both the RSF and the Third-Front Tamazuj.

230. The information gathered by the Fact-Finding Mission also indicates that young children have been used as part of the group of looters commonly referred to as “*Kassiba and spoils*” (مجموعات الكسبية والغنائم) that usually follow the RSF and its allied militias in their attacks to collect spoils of war of lower value.⁴¹⁰ During the attack of El Geneina on 24 April 2023, witnesses described seeing groups of women reciting prayers and chants encouraging children and youth to commit crimes against their enemy as they would be celebrated as knights.⁴¹¹ A witness also described how his house was looted in Gezira in the first part of 2024 by underage boys associated with the RSF, and looted again by a group composed of women and children hailing from “*Nyala or Um Dukhun in Darfur*.”⁴¹²

231. Reports indicate that the use of children by Arab militias is deeply entrenched in the Sudanese “*Faza’a*” (الفرع) tradition which consists of the spontaneous mobilization of armed men to defend the community against a perceived threat, particularly prevalent in Darfur and Kordofan.⁴¹³ Witnesses indicated that tribal leaders played a significant role in recruiting children, describing the following process. Tribal military leaders or “*Agid*” receive instructions from mid-level administrators or “*Omdas*” who respond to tribal leaders “*Amirs*” orders to provide them with a specific number of combatants from a specific tribe. “*Agid*” would then request each family of the clan to assign a number of their sons, including the ones below 18.⁴¹⁴ According to the information received by the Fact-Finding Mission, children are also easily lured into joining the RSF, drawn into the promises of receiving weapons and salaries as well as earning spoils of war.⁴¹⁵

Recruitment and use of hostilities by other armed groups

232. Apart from the two main warring parties, the Fact-Finding Mission additionally received credible allegations of recruitment and use of children by other parties to the conflict. This is notably the case with the Sudanese Alliance, formed mainly of the Masalit tribes. Eyewitnesses indicate having seen children, aged as young as 14, among groups of youth, armed with heavy machine guns and vehicles and allegedly associated with the Sudanese Alliance, participating in the looting of the Sudanese police weapons storage that took place in April 2023 in El Geneina.⁴¹⁶ The United Nations Secretary-General also reported 34 cases of recruitment and use of children under 18 by the Sudanese Alliance in its report on children and armed conflict in the Sudan for the years 2022 and 2023.⁴¹⁷

⁴⁰⁸ FFMS-D-002145, FFMS-D-002142, FFMS-D-002163.

⁴⁰⁹ FFMS-D-002102.

⁴¹⁰ FFMS_A_0466 and FFMS_A_0399.

⁴¹¹ FFMS-D-002215 and FFMS_A_0466.

⁴¹² FFMS_A_0399.

⁴¹³ See <https://3ayin.com/crowd/>.

⁴¹⁴ FFMS_A_0466.

⁴¹⁵ See also ACJPS Report of 18 December 2023 available at <https://web.acjps.org/sudan-the-continued-use-of-child-soldiers-in-the-armed-conflict-in-south-darfur/> and submission (Child rights consultation).

⁴¹⁶ FFMS_A_0466, FFMS-D-002156, FFMS-D-002147 and FFMS-D-001422.

⁴¹⁷ See S/2024/443, 7 June 2024, para. 22.

Killing and injuring of children

233. The war in the Sudan has resulted in staggering numbers of children being killed, maimed, or wounded under the most horrific circumstances. In nearly all cases affecting the civilian population documented by the Fact-Finding Mission, children were among the victims. Children have been killed and injured during airstrikes, shelling or crossfires, or executed. Numerous accounts of eyewitnesses reported the death of children during airstrikes that hit residential areas in Khartoum, East Nile⁴¹⁸, North Darfur⁴¹⁹ or Nyala⁴²⁰, central markets, including in Omdurman⁴²¹ or schools such as the aerial bombardment of Hadra elementary school, South Kordofan, on 14 March 2024 that killed and injured several children as they were queuing to enter their classrooms.⁴²² Children have also been severely injured during airstrikes with some suffering limb amputations. The extent of child casualties is quite significant; the sample of cases presented in this section are merely illustrations of the violations against children by the warring parties.

234. In Darfur, dead bodies with gunshots, including of children, were seen lying in the streets during the attack on El Geneina by RSF and its allied militias mentioned above. Children were killed by snipers while walking on the streets, inside their houses, or when the RSF and its allied militias shelled houses, schools, or hospitals in El Geneina, Ardamata and Zalingei. A doctor working in a makeshift hospital during these events recalled that he recorded the deaths of 350 children and 55 pregnant women hit by shelling between 24 April and 4 June 2023. The RSF and its allied militias also launched mortar shells on schools and IDP shelters in Ardamata and Zalingei resulting once again in the death of many children.⁴²³

235. Following the killing of the governor of West Darfur on 14 June 2023, described above, many witnesses described how children, particularly boys, were killed by the RSF and its allied militias while attempting to flee from the city.⁴²⁴ Children also drowned in the valley. An eyewitness also described having seen around 13 boys as young as 10, being grabbed from their families by Third-Front Tamazuj and Arab militias and thrown into the water. The boys could not swim and were swept away by the current.⁴²⁵ Another interviewee reported witnessing the torture and execution of a boy around 10-year-old, stopped by the RSF and its allied militias on the road while attempting to escape to Chad. He declared: “The boy was not handling the pain very well. He was screaming and crying as he was being whipped. He was shot in the head by one RSF. Part of his brain blew up on my shirt.”⁴²⁶

Abduction of children by the warring parties

236. The Fact-Finding Mission also gathered information regarding cases of abductions of boys and girls by the RSF in West Darfur. Witnesses reported having seen groups of underage girls forced by RSF elements into their cars in El Geneina and Ardamata.⁴²⁷ A girl who had been held captive for several months by the RSF explained she had been abducted with other girls and boys and was not aware of the whereabouts of the other abductees.⁴²⁸ The Fact-Finding Mission is also investigating allegations concerning the reported sale of young children alongside stolen goods in markets in Khartoum.

Attacks affecting access to healthcare for children

237. In the context of its investigations, the Fact-Finding Mission established that the shelling and occupation of hospitals, looting of medical and humanitarian supplies, threats and harassment of medical staff, as well as structural damage to healthcare infrastructure

⁴¹⁸ FFMS-D-001266.

⁴¹⁹ FFMS-D-001901.

⁴²⁰ FFMS-D-001789.

⁴²¹ FFMS-D-000021.

⁴²² FFMS-D-001235. See also, e.g. <https://3ayin.com/en/sk/>.

⁴²³ FFMS-D-002116, FFMS-D-002165, FFMS-D-002166.

⁴²⁴ FFMS-D-002142, FFMS-D-002088, FFMS-D-002116.

⁴²⁵ FFMS_A_0105.

⁴²⁶ FFMS_A_0105.

⁴²⁷ See also paras. 191-195 of this report.

⁴²⁸ FFMS-D-002090, FFMS-D-002097, FFMS-D-002088.

during the conflict have had a direct impact on access to healthcare for children. An interviewee recounted that his two-year-old nephew who had been admitted at Jaafar Ibnouf Children's Hospital in Khartoum, a week before the conflict broke out, died because the hospital had to suspend its services after the conflict broke out.⁴²⁹ Similarly, several children of Mygoma orphanage in Khartoum died of malnutrition, dehydration and disease as most of the caretakers were forced to stay away from the orphans for nearly two months due to the heavy clashes.⁴³⁰

238. Testimonies from the Darfur region also paint a stark picture. In El Fasher, the MSF-supported Babiker Nahar Children's Centre was closed down after an airstrike, allegedly carried out by the SAF, landed in its vicinity, killing two children.⁴³¹ The children of El Fasher were left without access to pediatric treatment due to the structural damages caused to the hospital. In El Geneina, a medical employee informed the Fact-Finding Mission that: *"When the crisis erupted, the RSF shut down El Geneina public hospital because they didn't want injured people to be admitted to the hospital. Medical staff were prevented from coming to the hospital and working. Medical equipment and beds were looted by the RSF. The shortage of medical supplies was severe, including intravenous fluids, oxygen, and antibiotics. Children died from diarrhea and measles because there was no salt, serum, or measles vaccine available."*⁴³² A witness also reported that after Nyala Turkish hospital was taken over by the RSF in March 2024, civilians were denied access, "even maternity cases".⁴³³

239. Based on the foregoing and in connection with other relevant sections of this report, the Fact-Finding Mission finds that RSF and affiliated militias recruited and used children in hostilities and committed acts of killing and maiming, abduction, and rape or other sexual violence against children, attacks on schools and hospitals, and deprivation of essential humanitarian assistance for children. It finds that SAF committed acts of killing and maiming of children, attacks on schools, and deprivation of essential humanitarian assistance for children. These acts constitute violations of international humanitarian law and international human rights law, in particular under the CRC and CRC-OP-AC, and echo the six grave violations against children in times of conflict.⁴³⁴

e. Arbitrary arrests and detention

240. The Fact-Finding Mission has documented widespread arrests and detention conducted by both the SAF and RSF since mid-April 2023 in areas under their control. Civilians were arrested mainly on suspicion of supporting the other party to the conflict.⁴³⁵ According to some witnesses, most of those detained appear to be civilians accused of working with the SAF and SAF Military Intelligence.⁴³⁶ Documented arrests and detentions took place in various locations of Khartoum, West and Central Darfur as well as River Nile state.

241. Use of unofficial locations and "unlawful"⁴³⁷ or "temporary"⁴³⁸ detention centres by both the SAF⁴³⁹ and RSF⁴⁴⁰ has been reported. Many were held in unofficial detention sites

⁴²⁹ FFMS-A-0399.

⁴³⁰ See <https://www.unicef.org/sudan/stories/finally-safe-vulnerable-children-are-rescued-mygoma-orphanage>.

⁴³¹ See MSF press release of 01/08/2024 (<https://www.msf.org/sudan-msf-outraged-and-alarmed-over-repeated-attacks-hospitals-el-fasher-and-blockade-urgently>).

⁴³² FFMS-D-002157.

⁴³³ FFMS-D-002151.

⁴³⁴ S/RES/1612 (2005).

⁴³⁵ FFMS-D-000021, FFMS-D-000042, FFMS-D-000056, FFMS-D-001283, FFMS-D-001285, FFMS-D-001304, FFMS-D-001309, FFMS-D-001320, FFMS-D-001410, FFMS-D-001417, FFMS-D-001424, FFMS-D-001952, FFMS-D-001956.

⁴³⁶ FFMS-D-001285.

⁴³⁷ See e.g. <https://irregularwarfare.org/articles/unlawful-detention-and-torture-in-sudanese-conflict-urgent-need-for-international-action/>

⁴³⁸ FFMS-D-001310.

⁴³⁹ FFMS-D-002105; <https://irregularwarfare.org/articles/unlawful-detention-and-torture-in-sudanese-conflict-urgent-need-for-international-action/>.

⁴⁴⁰ FFMS-D-001945, FFMS-D-1282, FFMS-D-001723, FFMS-D-001283, FFMS-D-001320, FFMS-D-1351, FFMS-D-001293, FFMS-D-001726, FFMS-D-002115, FFMS-D-002154, FFMS-D-002151.

by the RSF either in Khartoum or in Darfur. The locations most frequently cited include universities - mainly the International University of Africa in Khartoum,⁴⁴¹ schools,⁴⁴² private houses,⁴⁴³ buildings,⁴⁴⁴ including unfinished or abandoned ones, gas stations, police stations,⁴⁴⁵ and areas or houses adjacent to, or near the checkpoints⁴⁴⁶. The Fact-Finding Mission also received allegations on the existence of unofficial detention facilities in Khartoum used by the SAF.⁴⁴⁷

242. Civilians were arrested in different locations, including at checkpoints and their homes, often accompanied by acts of physical violence.⁴⁴⁸ For example, one interviewee who was arrested alongside five other men and detained by the RSF in Khartoum in July 2023, told the Fact-Finding Mission that he was taken to an RSF checkpoint where one of the RSF members hit him on the head while another whipped him. Following the physical assault, they tied the victim's hands and the hands of the five other individuals behind their backs, blindfolded them with pieces of cloth and pushed them into the RSF vehicles.⁴⁴⁹ Another interviewee who was violently beaten during his arrest in Gezira in 2023 at the SAF checkpoint, recalled:

“[I] was riding in public transport when [I] got off at the checkpoint. [...] [The SAF] checked [my] phone and messages. [...] [The SAF] asked me what these pics were. [I] explained that these are general pics in a group, but they beat [me] with fists and called [me] informer for the RSF. [...] The beating continued until they took [me] to a school turned into a detention centre”⁴⁵⁰

243. Members of the Emergency Response Rooms⁴⁵¹ and the resistance committees⁴⁵² were victims of arbitrary arrests and detentions by the SAF in Khartoum due to their professional activities and their perceived association with the Freedom and Change, a political party.⁴⁵³ They appear to be a direct target of SAF Military Intelligence, as they accuse them of being RSF collaborators.⁴⁵⁴

244. Among the victims of arbitrary arrest and detention were individuals, particularly men, who were trying to flee the country or various locations. Several male victims reported being arrested by the RSF as they used different routes from the main road to Adré while fleeing from El Geneina to avoid being killed,⁴⁵⁵ or leaving other areas.⁴⁵⁶ One witness who was arrested while fleeing El Geneina in June 2023, told the Fact-Finding Mission that he was on the way to the border in a group of six when they were stopped by Arab militias who threatened him by placing a gun on his head. Three of them managed to escape. However, he was shot in the leg and could not escape. He was captured, beaten, and returned to the rest of the detained group.⁴⁵⁷

⁴⁴¹ FFMS-D-001945, FFMS-D-001282.

⁴⁴² FFMS-D-001424.

⁴⁴³ FFMS-D-001945, FFMS-D-001723, FFMS-D-002115, FFMS-D-001283.

⁴⁴⁴ FFMS-D-001282, FFM-S-D-001285, FFMS-D-001320, FFMS-D-1351, FFMS-D-002154.

⁴⁴⁵ FFMS-D-001285, FFMS-D-001293.

⁴⁴⁶ FFMS-D-001726, FFMS-D-002151.

⁴⁴⁷ FFMS-D-002105.

⁴⁴⁸ FFMS-D-001424, FFMS-D-001320, FFMS-D-000021.

⁴⁴⁹ FFMS-D-001320.

⁴⁵⁰ FFMS-D-001424.

⁴⁵¹ FFMS-D-001268, FFMS-D-001418.

⁴⁵² FFMS-D-001268, FFMS-D-001292, FFMS-D-001410, FFMS-D-001424, FFMS-D-001285.

⁴⁵³ FFMS-D-001424, FFMS-D-001292.

⁴⁵⁴ FFMS-D-001410, FFMS-D-001285.

⁴⁵⁵ FFMS-D-001421, FFMS-D-001956, FFMS-D-1309.

⁴⁵⁶ FFMS-D-001726, FFMS-D-001952.

⁴⁵⁷ FFMS-D-002115.

245. Other victims recounted being arrested by the SAF while leaving or fleeing their areas.⁴⁵⁸ For example, an interviewee reported having been arrested with 40 young people by the SAF while fleeing Kordofan to South Sudan in September 2023.⁴⁵⁹

246. Arrests were conducted without a warrant or any other type of legal documentation.⁴⁶⁰ For example, one victim stated that, when the SAF raided his house in Southeast Khartoum in early 2024 to arrest him, he heard soldiers tell his family that they had received an order to arrest him, but the soldiers failed to provide any document or legal proof of the said order.⁴⁶¹ The victim added that all actions of the soldiers were taken without legal documentation, on the sole claim that they had an order. Many individuals were arrested on allegations of supporting the other party to the conflict.⁴⁶²

247. Former detainees told the Fact-Finding Mission that they were held together with hundreds of other detainees.⁴⁶³ A man who was detained at a SAF detention centre in December 2023, estimated the number of detainees at around 400.⁴⁶⁴ Another former detainee told the mission he was detained alongside more than 600 other persons at an RSF detention facility in November 2023.⁴⁶⁵ Boys under the age of 18 were arrested and held in both SAF and RSF detention facilities together with male detainees in Khartoum and Darfur.⁴⁶⁶

248. Harsh detention conditions were reported. Victims said that they were detained in extremely congested facilities, in inhumane conditions without access to adequate food, water and sanitation facilities.⁴⁶⁷ For example, a victim who was detained by the SAF said that he was held together with more than 70 other people in a room that measured 6x4 metres in size with a small window and a ventilator that wasn't functioning well.⁴⁶⁸ The witness added that they were initially 72 persons inside, but after some people were removed, 42 were left in the room. Everyone was standing and it was impossible to sit. They were allowed to use the toilet once a day. Medical facilities appear to have been totally lacking.

249. The dire conditions of detention had a severe impact on the detainees. An interviewee detained by the RSF in "a basement" in Khartoum for more than a month between July and August 2023 told the Fact-Finding Mission that such deplorable conditions led to severe psychological impact on some detainees, with a number losing their mental health: *"Twelve days into the detention, the witness began experiencing severe headaches and temporary losses of vision, with episodes where everything would briefly turn black. The passage of time felt very slow and never ending."*⁴⁶⁹

250. Deaths in detention in both SAF and RSF facilities have also been documented.⁴⁷⁰ Sources informed the Fact-Finding Mission that detainees in both SAF and RSF facilities were denied adequate food, water, and hygiene materials which exacerbated the already horrific conditions of detention and led to disease and death.⁴⁷¹

251. With regard to SAF, a former detainee reported that nine people died at the SAF facility during the time when he was detained there, around December 2023, including a young man who died after he was brought back from interrogation completely covered in blood. One witness said:

⁴⁵⁸ FFMS-D-001268, FFMS-D-001424, FFMS-D-001417.

⁴⁵⁹ FFMS-D-001417.

⁴⁶⁰ FFMS-D-002105, FFMS-D-002107, FFMS-D-001268, FFMS-D-001285, FFMS-D-002093.

⁴⁶¹ FFMS-D-002107.

⁴⁶² FFMS-D-000056, FFMS-D-001268, FFMS-D-001320, FFMS-D-001410, FFMS-D-1424, FFMS-D-002165, FFMS-D-002105, FFMS-D-001952, FFMS-D-001726.

⁴⁶³ FFMS-D-001320, FFMS-D-001410, FFMS-D-001952.

⁴⁶⁴ FFMS-D-001410.

⁴⁶⁵ FFMS-D-001952.

⁴⁶⁶ FFMS-D-002105, FFMS-D-001292, FFMS-D-001320.

⁴⁶⁷ FFMS-D-002105, FFMS-D-001292, FFMS-D-1320, FFMS-D-001285.

⁴⁶⁸ FFMS-D-001424.

⁴⁶⁹ FFMS-D-001320.

⁴⁷⁰ FFMS-D-001410; FFMS-D-002105.

⁴⁷¹ Consultation held in Nairobi on 16 August 2024.

“[...] [We] were not given salt and sugar to keep [us] weak. 9 people died in detention while [I] was [...] There was someone called [...]. [I] saw them [sic] when he just came back from interrogation, and he was very bloodied and highly disturbed. He was perhaps just 18 years old and part of a resistance committee. He did not say that he was raped, but [I] and the other detainees thought that may have happened to him. Eventually that person passed away in detention”⁴⁷²

252. With regard to RSF, the Fact-Finding Mission documented the death of individuals in unofficial detention centres operated by the RSF in Khartoum, due to torture and lack of health care.⁴⁷³ For example, a former detainee who was detained in a police station in Omdurman in June 2023 reported to the Fact-Finding Mission that the RSF brought four people who had been arrested to the same location, tortured them and two of them died as a result. The RSF then brought petrol and burnt the bodies.⁴⁷⁴

253. Interviewees reported spending several weeks in detention without access to legal assistance or family visits.⁴⁷⁵ One man, arrested in 2024, was held in one of the SAF headquarters for several weeks without being able to receive a family visit; it was not for lack of effort from the family to visit, but rather that they were denied the right to visit by the SAF agents.⁴⁷⁶ The Fact-Finding Mission also received allegations suggesting that family members of individuals sought by the SAF were detained to pressure the sought individuals to surrender.⁴⁷⁷

254. Several witnesses told the Fact-Finding Mission that relatives of the detained persons were forced by the RSF to pay ransom. Former detainees told the Fact-Finding Mission that members of the RSF extorted their family members of large sums of money promising to release the individuals or to allow them to visit.⁴⁷⁸ One interviewee stated:

“[I] saw a RSF detention centre in East Nile in a building attached to a gas station “Toromba”. RSF were bringing tied up men and detaining them in this building and would only release them after receiving ransom from their families. [I] had 5 of [my] relatives detained at the same place and went and spoke to the armed guard (who spoke in the Arab dialect) at the door to release them, however the guard refused to release them unless [I] pay 20 thousand Sudanese pounds. [I] did not have the money. [I] then returned the following day and paid the guard 10 thousand Sudanese pounds, and they were released”⁴⁷⁹

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

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

256. The Fact-Finding Mission found that acts amounting to torture and other forms of ill-treatment were carried out by the SAF, including its Military Intelligence, and by the RSF and its allied militias.

257. Civilians were often subjected to severe beatings while held inside their homes, particularly during raids by the RSF and its allied militias in El Geneina. Others reported

⁴⁷² FFMS-D-001410.

⁴⁷³ FFMS-D-001282, FFMS-D-001285, FFMS-D-001945.

⁴⁷⁴ FFMS-D-001285.

⁴⁷⁵ FFMS-D-001320, FFMS-D-002105, FFMS-D-002107, FFMS-D-002111.

⁴⁷⁶ FFMS-D-002105.

⁴⁷⁷ FFMS-D-002107.

⁴⁷⁸ FFMS-D-002154, FFMS-D-001309, FFMS-D-001281, FFMS-D-001431.

⁴⁷⁹ FFMS-D-002154.

being attacked physically at checkpoints set up by the RSF on the way between El Geneina and Adré. One of the interviewees stated that an RSF member pulled her to the side of the road that leads to Adré and whipped her because she was defending herself from being raped.⁴⁸⁰

258. In the incidents documented by the Fact-Finding Mission, the victims were subjected to intense physical and/or mental pain or suffering. One victim described how, in May 2023, the RSF took her from a house in El Geneina, blindfolded her and transferred her to another location where they severely whipped her for what seemed like a long duration of time. They also pulled out her hair with their hands. She lost consciousness.⁴⁸¹

259. The most common methods which were used by the SAF included pouring cold water on the victim; beating the victim on various parts of the body or, in some cases, on the entire body with iron cables, whip, rifles and weapons; causing sometimes deep cuts and bleeding, pulling out or damaging the victim's finger or toenails, and lashing. An interviewee who was arrested a few times in May 2023 and detained by the SAF in Omdurman reported:

“[I] was tak[en] to the SAF Engineering Military Base in Omdurman, [...]. The first time [I] stayed with them for a week. [I] was beaten with metal rods on [my] back and feet. They broke [my] toes and left leg. They pulled out [my] toenails and [I] lost all sense in [my] feet. The second time for two days, also heavy beating on [my] back. The third time for 4 days, also beaten. I ha[ve] continued pain on legs, back and head.”⁴⁸²

260. The most common methods of torture identified by the Fact-Finding Mission as being used by the RSF included lashing and beating the victim on various parts of the body or, in some cases, on the entire body with iron cables, whip, rifles and weapons. An interviewee who was captured by RSF allied militias in early 2024 told the Fact-Finding Mission:

“[...] [the militias] wanted to kill [me] and get rid of [me] without leaving any trace by tying [me] up and hanging [me] while [I] was blindfolded and gagged, so that [I] could not scream, even though the area was devoid of any residents. [...]. [I] was beaten and tortured there by seven men. They were asking [me] questions about [my] work and accusing [me] of being a collaborator and military. They put a [sic] iron cable (used in a motorcycle) around [my] neck. They would move and drag [me] forcefully using the cable. [I] lost [my] breath and lost consciousness. Then [I] was severely beaten and kicked in [my] stomach and lost consciousness again.”⁴⁸³

261. Other reports and publications highlighted instances of torture inflicted on detainees by the SAF and the RSF which were filmed.⁴⁸⁴ In one incident, SAF reportedly tortured “six blindfolded detainees with their hands tied behind their backs by whipping and beating them with sticks.”⁴⁸⁵ In another reported incident, an RSF member in uniform “placed his boot on the neck of a man lying on the tarmac. A second victim, a man in a red T-shirt, is lying still on his side on the tarmac with a pool of blood surrounding his lower back.”⁴⁸⁶

262. Testimonies gathered by the Fact-Finding Mission indicate that threats and torture were used by the SAF in an attempt to extract confessions from the detainees on their alleged affiliation or collaboration with the RSF.⁴⁸⁷ An interviewee stated that when he was interrogated by the SAF during his detention, the interrogator would instruct the personnel to conduct different types of torture if he did not answer. They asked him about “collaboration with the enemy”.⁴⁸⁸ Another victim detained by the SAF described that he was beaten and poked with needles in different parts of his body by SAF officers while interrogating him

⁴⁸⁰ FFMS-D-002091, see also Section C of this Chapter.

⁴⁸¹ FFMS-D-002084.

⁴⁸² FFMS-D-001292.

⁴⁸³ FFMS-D-000021.

⁴⁸⁴ See e.g. Sudan: Warring Parties Execute Detainees, Mutilate Bodies | Human Rights Watch (hrw.org).

⁴⁸⁵ Ibid.

⁴⁸⁶ Ibid.

⁴⁸⁷ FFMS-D-000042, FFMS-D-001410, FFMS-D-001424.

⁴⁸⁸ FFMS-D-001410.

about his political views, affiliations and activities including his relationship with the Forces of Freedom and Change and Resistance Committees and whether he participated in the civil uprising.⁴⁸⁹

263. Witnesses stated that underage boys were also subjected to acts of torture or other cruel, inhuman or degrading treatment.⁴⁹⁰ Children were also deprived of food and water as was the case for adult detainees. One interviewee who had been detained at Al Nakheel Police Station in Omdurman described that the RSF beat detainees with electric rods and whips, sometimes on their genitals, adding:

“[...] The children were badly tortured, so much that any man seeing them could have cried. They had lots of scars on their body and one of them after a week, lost awareness around him.”

264. Evidence gathered also indicates that the RSF used teenage boys as prison wards and to inflict torture on other detainees, notably in Al Nakheel Police Station in Omdurman.⁴⁹¹

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

g. Suppression of free speech, information and media

266. The Fact-Finding Mission established that freedom of opinion and expression have been curtailed by both the SAF and RSF in numerous ways since the outbreak of hostilities in mid-April 2023. Incidents documented by the Fact-Finding Mission include attacks and reprisals on journalists and members of the press, including arbitrary detention, torture, and sexual violence, attacks and reprisals against human rights defenders, activists, and members of the Emergency Response Rooms and civil society. These incidents included surveillance, monitoring, and physical violence; threats, intimidation, and warnings against publishing certain information or expressing certain views; armed takeovers of media buildings and/or companies; and repeated network disruptions and shutdowns of the internet, often for lengthy periods of time.

Suppression of Information and Internet shutdown

267. Following the eruption of the conflict in mid-April 2023, there was an immediate blackout of information and communication. Key media outlets and telecommunications services were suspended or shut down, first in the Khartoum area, leading to widespread blackouts that severely impacted the population across all of the Sudan. On 16 April 2023, the RSF seized control of the state-owned Sudan TV building in Omdurman. RSF soldiers stormed the building, disrupting transmission and restricting broadcasters from going on air to prevent news updates from being broadcast to the public.⁴⁹² The RSF reportedly used the state broadcast building for military operations.⁴⁹³ The SAF immediately cut broadcast signals.⁴⁹⁴ State radio was also cut after the RSF used radio networks to broadcast

⁴⁸⁹ FFMS-D-001424.

⁴⁹⁰ FFMS-D-001285, FFMS-D-001320 and FFMS-D-002151.

⁴⁹¹ FFMS-D-001285.

⁴⁹² See eg: OCHA Sudan: Clashes between the Sudanese Armed Forces & and Rapid Support Forces, Flash update (16 April 2023).

⁴⁹³ See, eg: ACLED report; Sudan: Escalating Conflict in Khartoum and Attacks on Civilians in al-Jazirah and South Kordofan, 15 March 2024.

⁴⁹⁴ Ibid.

propaganda,⁴⁹⁵ and MTN Sudan blocked internet services reportedly at the request of the government's telecommunications regulator for several hours on 16 April 2023.⁴⁹⁶

268. Following the seizure by the RSF of the critical communication infrastructure, including the Sudan TV building and the Sudatel Data Centre (Sudan Telecommunications Group) which houses the company's internet and telecommunications data centres, major network disruptions were observed. According to media reports, in February 2024, the RSF shut down telecommunications services provided by the two largest providers in the Sudan, MTN Sudan and Sudani.⁴⁹⁷ Reportedly, the RSF also forced Zain Sudan, the third largest provider of telecommunications services in the Sudan, to stop its services in River Nile State and Port Sudan.⁴⁹⁸ These actions left civilians unable to access essential services or contact their families, causing significant psychological distress and compounding the humanitarian crisis. Many Sudanese civilians rely on online payments for food and other essentials, which they could no longer access due to network disruptions.

269. The internet shutdown in the Sudan in February 2024 led to a near-total communication blackout and had significant and wide-ranging effects on the civilian population. The communications shutdown severely hindered humanitarian and emergency services, left millions unable to access essential services, communicate with family, or receive mobile money transfers, further jeopardized the safety and well-being of especially vulnerable populations, and exacerbated already poor conditions in conflict-affected areas of the country. The internet shutdown hampered the work of frontline humanitarian aid providers, for example persons working in the Emergency Response Rooms. The internet shutdown effectively paralyzed their work, rendering them unable to communicate and coordinate with colleagues and unable to buy food, medicine, and other medical equipment for those in need. The network shutdown also worsened the existing humanitarian crisis.⁴⁹⁹

Censorship and restrictions on freedom of the media

270. The Fact-Finding Mission found that the conflict has been marked by systematic censorship and suppression of print and electronic media freedom by both the RSF and SAF. In particular, both the RSF and the SAF have restricted the journalists and other members of the press from speaking to international media. For instance, during the RSF occupation of Sudan TV, employees reported that they were prohibited from speaking to any international media about the conflict.⁵⁰⁰

271. Due to threats, intimidation, and fear of arrests or reprisals, Sudanese media has reportedly self-censored, especially with respect to reporting on corruption and the security services.⁵⁰¹ The systemic targeting of both print and electronic media companies has forced most to cease operations,⁵⁰² leaving a majority of Sudanese journalists with unpaid dues and no viable source of income.⁵⁰³

⁴⁹⁵ See eg: OCHA Sudan: Clashes between the Sudanese Armed Forces & and Rapid Support Forces, Flash update (16 April 2023).

⁴⁹⁶ See eg: CIPESA report: State of Internet Freedom in Africa - 2023, A Decade of Internet Freedom in Africa: Recounting the Past, Shaping the Future, September 2023.

⁴⁹⁷ See eg: Sudantransparency's Report; Sudan Conflict Monitor #11, 12 March 2024.

⁴⁹⁸ Ibid.

⁴⁹⁹ See, Sudan: Internet Shut down threatens delivery of humanitarian and emergency services, Amnesty International, March 8 2024.

⁵⁰⁰ See e.g. CPJ Middle East and North Africa Program's analysis; One year into Sudan's civil war, its media faces grave threats, 12 April 2024.

⁵⁰¹ US State Dept. Country Report 2023 <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/sudan/>

⁵⁰² See eg: State.Gov Report_SUDAN-2023-HUMAN-RIGHTS- Country Reports on Human Rights Practices for 2023.

⁵⁰³ See eg: freepressunlimited, Urgent appeal for support to Sudanese media.

Attacks on journalists, media and civil society actors

272. Numerous reports indicate that since mid-April 2023 both the RSF and the SAF have threatened, intimidated, harassed, and attacked journalists and media professionals. Women journalists, human rights defenders and activists were at a heightened risk, as they were particularly vulnerable to gender-based violence and/or conflict-related sexual violence.⁵⁰⁴ The intimidation of media professionals has taken a range of forms, including reported conducting of raids on both the workplaces and private homes of journalists, damaging and/or confiscating equipment, and mass detentions of media employees at their place of work. Intimidation has generally been used to suppress critical or unfavourable reporting or to prevent journalists from reporting on the conflict.

273. One case documented by the Fact-Finding Mission concerned a female journalist who was threatened by the RSF after being linked to media coverage of violations reportedly committed by RSF members. The repeated threats extended to her family members and forced her to flee.⁵⁰⁵ In another incident in May 2023, two journalists were stopped at an RSF checkpoint as they tried to escape Khartoum and detained after presenting their identification, which included press cards.⁵⁰⁶ Accused of being SAF supporters, the journalists were interrogated and their phones and laptops searched by the RSF. The journalists themselves were threatened with death if the laptops revealed that they were aligned with the Sudanese military. They were later released.

274. The warring parties reportedly targeted print and electronic media entities with violent attacks and other forms of intimidation. In early April, SAF soldiers reportedly twice opened fire on the headquarters of Al-Jarida newspaper.⁵⁰⁷ In several cases, SAF soldiers reportedly detained journalists at their workplaces for days at a time.⁵⁰⁸ In the first days of the conflict, fifteen journalists were reportedly detained at the Sudan News Agency building for 72 hours.⁵⁰⁹ As a further example, nine journalists from Al Araby TV and four journalists working for Al Arabiya and Al Hadath news channels were reportedly detained in their offices in Al-Neelein Towers from 15 to 23 April 2023.⁵¹⁰

275. The Fact-Finding Mission has also documented multiple incidents of threats, intimidation, harassment, attacks and reprisals against human rights defenders, lawyers and activists documenting human rights violations, and members of civil society, by both the SAF and RSF. For instance, a survivor informed the Fact-Finding Mission that RSF allied militias in El Geneina arrested and tortured her apparently due to her activities documenting human rights violations allegedly perpetrated by the RSF and its allies.⁵¹¹ Another person reported being abducted and tortured by the RSF in Omdurman in early 2024 and was accused of being a SAF collaborator and a spy due to his activism.⁵¹²

276. Based on the foregoing, the Fact-Finding Mission finds that both RSF and SAF imposed broad internet shutdowns by cutting access to information and communication through internet and media services and curtailing free speech of journalists and the media incompatible with the right to freedom of opinion and expression under the ICCPR and ACHPR.⁵¹³

⁵⁰⁴ See paras 196-197 this report.

⁵⁰⁵ FFMS-D-001301.

⁵⁰⁶ FFMS-D-001726.

⁵⁰⁷ See eg: Report of freepressunlimited; Widespread violations against journalists during the first month of the War, 14 May 2023.

⁵⁰⁸ Ibid.

⁵⁰⁹ Ibid.

⁵¹⁰ Ibid.

⁵¹¹ FFMS-D-002084.

⁵¹² FFMS-D-000021.

⁵¹³ See further legal findings on sections E. Arbitrary Arrest and Detention, and F. Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

h. Access to Humanitarian aid

Humanitarian needs in the Sudan

277. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), close to 16 million people were in need of lifesaving assistance due to prolonged internal conflicts and instabilities, and economic crisis before the conflict between SAF and RSF broke out.⁵¹⁴ Sixteen months later, the conflict engulfed the vast parts of the Sudan and aggravated the humanitarian crisis in the country. By August 2024, more than half of the Sudanese population - 26.5 million people – was experiencing acute hunger. Among them, more than 8.5 million people are facing emergency levels of hunger (IPC 4) and more than 755,000 were in catastrophic conditions (IPC 5) in Darfur states, South and North Kordofan, Blue Nile, Gezira, and Khartoum.⁵¹⁵

278. In July 2024, IOM estimated that 10.7 million people were internally displaced, which includes an estimated 7.9 million people who fled their homes since the start of the conflict. Children under the age of 18 years comprised more than half (52 per cent) of the internally displaced population in the Sudan.⁵¹⁶

279. While the conflict pushed the Sudan's health system to the verge of collapse, people in the Sudan are facing a lethal combination of displacement, shortage of potable water, hunger and disease. In July 2024, the Famine Review Committee (FRC) of the Integrated Food Security Phase Classification (IPC) determined that famine conditions (IPC 5) are prevalent in one of the IDP camps. This means “at least one in five (or 20 per cent) people or households have an extreme lack of food and face starvation and destitution, resulting in extremely critical levels of acute malnutrition and death.”⁵¹⁷

280. Since the beginning of the conflict in mid-April 2023, an estimated 700,000 people fled to Nuba Mountain, an area bordering South Sudan and which has been under the administration of the SPLM-N for decades.⁵¹⁸ Though Nuba Mountain offered peace for internally displaced persons from other parts of the Sudan, the humanitarian situation deteriorated so much that the SPLM-N, which is administering the area declared famine.⁵¹⁹

Denial of humanitarian access

281. In its Mid-Year Humanitarian Situation Report, UNICEF drew attention to the challenges faced by humanitarian actors in delivering assistance to vulnerable communities in Kordofan, Darfur, and Khartoum due to bureaucratic hurdles, active armed conflict, and lack of commitment from parties to the conflict to ensure safety of operations. While the need for humanitarian aid in the Sudan has drastically increased since the beginning of the conflict, the delivery of the humanitarian did not match the need. Access restrictions, including administrative impediments, and insecurity for humanitarian aid and humanitarian workers have further aggravated the humanitarian crisis.

282. Access restrictions, including administrative impediments, and insecurity for humanitarian aid and humanitarian workers have further aggravated the humanitarian crisis. Humanitarian organizations operating in the Sudan indicated that they are facing multiple challenges. These include arbitrary denial of, or delays in processing visa applications for humanitarian workers, restrictions on border-crossing options for humanitarian aid, delays in issuing travel permits for humanitarian workers and authorizing domestic humanitarian movement.⁵²⁰ According to OCHA, “the planned movement of over 125 trucks to hard-to-

⁵¹⁴ <https://reports.unocha.org/en/country/sudan/card/7yQOEKQPua/>

⁵¹⁵ https://reports.unocha.org/en/country/sudan?_gl=1%2a822ejo%2a_ga%2aMTY5ODQ5OTM0NS4xNzIzMTAwMTY3%2a_ga_E60ZNX2F68%2aMTcyMzEwMDE2Ny4xLjEuMTcyMzEwMDE3My41NC4wLjA.

⁵¹⁶ <https://dtm.iom.int/sudan>.

⁵¹⁷ <https://reliefweb.int/report/sudan/famine-sudan-ipc-famine-review-committee-confirms-famine-conditions-parts-north-darfur>.

⁵¹⁸ <https://www.refugeesinternational.org/reports-briefs/the-nuba-mountains-a-window-into-the-sudan-crisis/>.

⁵¹⁹ Refugees International, The Nuba Mountains, A Window into the Sudan Crisis, August 2024, <https://d3jwam0i5codb7.cloudfront.net/wp-content/uploads/2024/08/Nuba-Mountains-Aug-2024-D3.pdf>, p.4.

⁵²⁰ <https://reliefweb.int/report/sudan/sudan-humanitarian-access-snapshot-july-2024>.

*reach areas have been pending approval for over 90 days” since the beginning of March 2024 affecting delivery of humanitarian aid in South, Central, North and East Darfur, and Khartoum states.*⁵²¹

283. Since August 2023, the RSF has also established the Sudanese Agency for Relief and Humanitarian Operations (SAHRO). Though humanitarian organizations acknowledged that SAHRO used to be better at facilitating humanitarian aid during the first few months, it also introduced administrative impediments such as registration of humanitarian organizations, mandatory travel permit approval for the movement of humanitarian personnel and supplies in areas under RSF Control.⁵²² Representatives of humanitarian agencies have told the Fact-Finding Mission that the RSF recently introduced a mandatory list of vendors from whom humanitarian organizations must procure goods and services if they procure them locally - a move that would endanger the neutrality of humanitarian operations and organizations.⁵²³

284. The SAF hampered the transport of humanitarian aid through border-crossings that facilitate access to communities in need of aid, especially access to locations controlled by the RSF. The RSF is similarly preventing access to areas under the control of the SAF. From February to August 2024, the SAF blocked the use of the Adré border crossing for passage of humanitarian assistance from Chad based on the perception that it would benefit the RSF, while the RSF blocked the delivery of medical supplies to El Fasher city on the basis that it would benefit SAF forces in the city. The Sudanese authorities agreed to re-open the Adré border crossing, as talks led by the United States of America continued in Geneva from 14 August 2024.⁵²⁴

285. Based on the foregoing, the Fact-Finding Mission finds that both the SAF and RSF have engaged in actions contrary to their obligations under international humanitarian law regarding unimpeded and rapid passage of humanitarian relief for civilians in need, despite the repeated calls by the United Nations Security Council to allow and facilitate the full, rapid, safe, unhindered, and sustained passage of humanitarian relief for civilians in need.⁵²⁵

VIII. International Crimes and their Perpetrators

286. The Fact-Finding Mission has examined the above findings in accordance with its standard of proof under international human rights law and international humanitarian law through the lens of international criminal law, which provides for individual criminal responsibility over the core international crimes of war crimes, crimes against humanity and genocide. The Fact-Finding Mission underlines that there is no hierarchy among international crimes and the finding of fact on one international crime does not exclude the others, as one set of conduct can constitute several international crimes.

287. In accordance with the standard of proof of the Fact-Finding Mission, determinations of factual findings on international crimes are based on the ‘reasonable grounds to believe’ standard. This means that a finding should be understood to indicate that there is verified and corroborated information and/or evidence to support the suspicion or probability that a certain fact or pattern has occurred, leading, when measured against legal standards, to the conclusion that there are reasonable grounds to believe that certain crimes have occurred. This is a lower standard than the beyond reasonable doubt standard used by prosecutors and a competent court of law to establish guilt or innocence after a fair trial. Rather, a finding of reasonable grounds to believe establishes a threshold of proof that should lead a competent

⁵²¹ https://reports.unocha.org/en/country/sudan?_gl=1%2aaxuhky%2a_ga%2aMTA4MDQxMjA5Ni4xNzIzMDMxNTIz%2a_ga_E60ZNX2F68%2aMTcyMzE4NDg4OC41LjEuMTcyMzE4NDg4OC41Ny4wLjA.

⁵²² FFMS-D-002172. https://reports.unocha.org/en/country/sudan?_gl=1%2aaxuhky%2a_ga%2aMTA4MDQxMjA5Ni4xNzIzMDMxNTIz%2a_ga_E60ZNX2F68%2aMTcyMzE4NDg4OC41LjEuMTcyMzE4NDg4OC41Ny4wLjA.

⁵²³ FFMS-D-002173.

⁵²⁴ Delegations include the United Nations, African Union, Egypt, Saudi Arabia, the United Arab Emirates, and Switzerland.

⁵²⁵ S/RES/2724 (2024) and S/RES/2736 (2024).

prosecutor to further investigate the conduct in question with a view to determining whether to issue an indictment.

War crimes

288. For a finding on the commission of war crimes to be made by the Fact-Finding Mission, it must be established that the situation in the Sudan qualifies as a non-international armed conflict on the basis of two cumulative criteria; that of the level of intensity and the degree of organization of the armed entities involved. It must further be established that the conduct in question took place in the context of and was associated with the non-international armed conflict in the Sudan since mid-April 2023 ('nexus requirement').⁵²⁶ War crimes include serious violations of Common Article 3 and Additional Protocol II, to which the Sudan is a State party, as well as of rules of customary international humanitarian law applicable to non-international armed conflicts.

289. The Fact-Finding Mission has determined that the threshold for the existence of a non-international armed conflict in the Sudan has been met (See Chapter IV on Applicable Law). The Fact-Finding Mission further finds that the above-described violations took place in the context of and with a nexus to the non-international armed conflict in the Sudan since mid-April 2023. On this basis, it finds reasonable grounds to believe that many of the established violations of international humanitarian law constitute war crimes.

290. The Fact-Finding Mission finds reasonable grounds to believe that the RSF and its allied militias committed the war crimes of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; committing outrages upon personal dignity, in particular humiliating and degrading treatment; rape, sexual slavery and any form of indecent assault; pillage of towns or places; conscripting or enlisting children under the age of 15 or using them to participate actively in hostilities; intentionally directing attacks against the civilian population; and ordering the displacement of the civilian population for reasons related to the conflict.

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

Crimes against humanity

292. Crimes against humanity concern the commission of prohibited acts as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. To establish the existence of an attack against the civilian population, the Fact-Finding Mission considers it must find reasonable grounds to believe that multiple acts were directed against a predominantly civilian population pursuant to or in furtherance of a State or organizational policy.⁵²⁷ Such policy may comprise acts and/or omissions and be inferred from the facts.⁵²⁸ It must further establish reasonable grounds to believe that the attack was widespread or systematic in nature. Widespread relates to the large-scale nature of the attack and number of victims.⁵²⁹ Systematic refers to its organized character and often involves a plan or policy.⁵³⁰

⁵²⁶ See e.g., ICTY, *Prosecutor v. Karadžić*, Judgement (TC), IT-95-5/18, 24 March 2016, para. 441.

⁵²⁷ See e.g., ICTY, *Prosecutor v. Kordić and Čerkez*, Judgement (TC), IT-95-14/2-T, 26 February 2001, paras. 178-182.

⁵²⁸ See e.g., ICTY, *Prosecutor v. Kordić and Čerkez*, Judgement (TC); ICC, *Prosecutor v. Ruto, Koshey and Sang*, Decision on the confirmation of charge, ICC-01/09-01/11, 23 January 2012, para. 210.

⁵²⁹ See e.g., ICTY, *Prosecutor v. Jadranko Prlić*, Judgement (TC), IT-04-74-T, 29 May 2013, paras. 41-42. ICTY, *Prosecutor v. Radovan Karadžić*, Judgment (TC), IT-95-5/18-T, 24 March 2016 paras. 471-472, 477.

⁵³⁰ See e.g., ICTY, *Prosecutor v. Jadranko Prlić*, Judgement (TC), IT-04-74-T, 29 May 2013, paras. 41-42; ICTY, *Prosecutor v. Radovan Karadžić*, Judgment (TC), IT-95-5/18-T, 24 March 2016 paras. 471-472, 477.

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

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

Identification of persons and entities responsible

295. The Fact-Finding Mission has been mandated to support accountability efforts, including to identify to the extent possible those individuals and entities responsible for the above-described violations and abuses, and related crimes. To this end, its investigation strategy has included the identification of alleged perpetrators. Where the standard of proof of reasonable grounds to believe as applied by the Fact-Finding Mission has been met, it will include those individuals and entities in a confidential list with a view to developing dossiers.

IX. Accountability

296. The Sudan carries the primary responsibility to prevent and halt violations and abuses of human rights and violations of international humanitarian law. In line with the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law it must provide remedies and reparations to survivors. To discharge this responsibility, it must take appropriate measures, including legislative and administrative, to prevent and ensure accountability for international crimes committed on its territory. This requires that the domestic legal system of the Sudan is able and the authorities willing to carry out investigations effectively, promptly, thoroughly and impartially, and as appropriate, prosecute those responsible.⁵³¹ In line with the principle of complementarity and as a basis for its jurisdiction, the International Criminal Court assessed the Sudan to be unwilling or unable to investigate and prosecute international crimes committed in the Darfur conflict leading to the United Nations Security Council referral to the Court in 2005.⁵³²

297. Victims are “*persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law*”.⁵³³ They may include their immediate family and dependents, as well as persons who suffered harm through intervening to assist victims or prevent victimization.⁵³⁴ All survivors should be treated with humanity and dignity for their human rights.⁵³⁵ They should be placed at the centre of any accountability process and, as part of their right to remedies, be provided with equal and effective access to justice. This should include access to judicial and other appropriate remedies at the national and international levels as may be available.⁵³⁶ Remedies

⁵³¹ A/RES/60/147, para. 10.

⁵³² Statement of the Prosecutor of the International Criminal Court, Mr. Luis Moreno Ocampo, to the Security Council on 29 June 2005 pursuant to UN SC Resolution 1593 41 (2005).

⁵³³ A/RES/60/147, para. 10.

⁵³⁴ A/RES/60/147, para. 10.

⁵³⁵ Ibid.

⁵³⁶ A/RES/60/147, paras. 3, 11, 12 and further; see also e.g., E/C.12/1999/5, para. 32.

further include adequate, effective and prompt reparation for harm suffered and access to relevant information concerning violations and reparation mechanisms.⁵³⁷

The Sudan's domestic legal system

298. Following the removal of former President Omar Al Bashir, the 2019 Transitional Constitutional Document (Constitutional Decree No. 38), amended in 2020 following the Juba Peace Agreement, set out legislative and institutional reforms to be undertaken by State agencies to address the country's legacy of past violations.⁵³⁸ The process was, however, cut short following the 2021 military takeover and the subsequent eruption of the current conflict.

299. The Sudan's Criminal Act of 1991, as amended in 2009, provides for criminal responsibility over a range of offences, including offences affecting persons and the human body, or against honour, reputation, public morality or personal liberty, such as murder, rape, abortion, and unlawful confinement or detention. It also criminalizes offences against the state, including undermining the constitutional system, waging war against the state, espionage, disclosure of secret matters relating to the affairs of the state, as well as sedition, such as publishing false news. The 2009 amendment added a chapter criminalizing certain acts as crimes against humanity, war crimes and genocide.⁵³⁹ The Sudan maintains the death penalty for crimes of extreme gravity, which include offences against the state and international crimes.⁵⁴⁰ The Armed Forces Act of 2007, amended in 2022, also contains provisions on war crimes including offences against protected persons and prisoners of war, attacks on civilians, and displacement of the population. Criminal procedures are laid out in the Criminal Procedure Act of 1991, amended in 2009, and the Evidence Act of 1994.

300. In relation to international crimes, the categories and definitions employed in the Sudanese legislation are however narrower than the ambit recognized by international law thereby impeding accountability for the full range of international crimes committed at the national level. For example, the definition of war crimes adds knowledge of the commission of war crimes - instead of the factual circumstances prevailing at the time - as a threshold for application and limits the war crime of murder to the killing of one or more persons belonging to a protected group as opposed to any civilian or person hors de combat in the context of an armed conflict.⁵⁴¹ It further does not include sexual slavery as a war crime. While crimes against humanity can be committed in times of conflict and in peace,⁵⁴² some of the underlying crimes listed in the 2009 amendment, such as forcible deportation or transfer and forced pregnancy, are limited to the context of an armed conflict.⁵⁴³ In addition, the crime against humanity of extermination is not defined in the 2009 amendment, which only lists the intentional killing of one or more persons. The definition of genocide to the contrary adds homicide, including attempt or incitement, as a chapeau element and requires that it takes place in the context of large-scale or systematic conduct directed against the protected group, which it limits to national, ethnic or religious grounds, thereby excluding racial groups.

301. The Fact-Finding Mission is further concerned over the definition of rape and other forms of sexual violence contained in domestic legislation, which falls short of international standards rendering it inadequate to enable the prosecution of sexual and gender-based violence, including sexual violence occurring during conflict. Until 2015, the Criminal Act of 1991, as amended in 2009, defined rape as adultery (*zina*) without consent, applying the same burden of proof to the crime of adultery and rape (confession of the perpetrator or testimony from four male witnesses), and exposing rape survivors to being prosecuted for adultery or fornication if they could not prove the lack of consent. A legal reform in 2015 redefined rape in the Criminal Act of 1991, delinking it from adultery (*zina*). This change

⁵³⁷ A/RES/60/147, paras. 3 and 11.

⁵³⁸ Confidential Submissions.

⁵³⁹ Articles 186-192 of the 2009 Amendment to the Criminal Act of 1991.

⁵⁴⁰ Article 54, 2019 Transitional Constitutional Document, amended in 2020.

⁵⁴¹ Article 188 of the 2009 Amendment to the Criminal Act of 1991.

⁵⁴² See e.g., ICTY, *Prosecutor v. Tadić*, Judgment (AC), IT-94-1-A, 15 July 1999, para. 251.

⁵⁴³ Article 5 of the Statute of the International Criminal Tribunal for the Former Yugoslavia, limited the power to prosecute crimes against humanity to "The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict (...)".

aimed to provide a clearer definition of rape, focusing on the absence of consent rather than the marital status of the individuals involved. Notwithstanding this reform, rape survivors continue to be exposed to prosecution for adultery or other crimes of sexual misconduct if they cannot prove the lack of consent.

302. The 1991 Criminal Act, as amended in 2009, further criminalizes same-sex sexual activity between men and between women with its provision on “sodomy” (applicable to men only) and “indecent acts” (applicable to both men and women) that can result in severe penalties, including life imprisonment, which would most likely discourage any male survivor of sexual violence by a man from attempting to restore his rights, out of fear of failing to prove the rape and be prosecuted with one of these provisions. In addition, the (Muslim) Personal Status Act of 1991, which governs familial relations such as marriage, divorce, child custody and inheritance and is primarily based on Shari’a law, permits forced marriages of Sudanese women and girls. It provides that the marriage of a Muslim woman or girl shall be concluded by her male guardian and authorizes the marriage of children as young as ten, with the authorization of a judge. Marital rape is not criminalized under Sudanese domestic law.

302. In relation to sexual violence as part of international crimes, the 2009 amendment to the 1991 Criminal Act of 1991 criminalizes rape and other acts of a sexual nature as underlying crimes of crimes against humanity and war crimes; however, their definitions also fall short of the definitions under customary international law. For instance, the crime of forced pregnancy as a crime against humanity adds the element of “affecting the ethnic composition”. Furthermore, victims/survivors of rape and other forms of sexual violence face hurdles in reporting such crimes at the national level, including due to fears of stigma, reprisals and/or being prosecuted for adultery. Concerns have in this regard been shared with the Fact-Finding Mission over the legal procedures necessary to prove rape, in particular the obligatory use of Form No. 8, a medical report which has become unavailable in many health facilities or police stations⁵⁴⁴

303. Moreover, while the CAT has direct effect at the national level pursuant to Article 42(2) of the 2019 Transitional Constitutional Document, the absence of full incorporation of the definitions of acts of torture and ill-treatment into Sudanese law, raises questions regarding its practical implementation. The definition of torture and ill-treatment provided under Article 115(2) of the Criminal Act of 1991, amended in 2009, regarding the offence of influencing the course of justice is limited to “*Every person who, having public authority, entices or threatens, or tortures any witness, or accused, or opponent to give, or refrain from giving any information in any action, shall be punished, with imprisonment, for a term, not exceeding three months, or with fine, or with both.*” This definition also falls short of the international legal obligations undertaken by the Sudan under the CAT since it does not define all elements of the act of torture. For example, it excludes from its definition acts committed at the instigation or with the consent or acquiescence of a public official or person acting in an official capacity, acts by which severe mental pain or suffering is inflicted, and acts of torture or ill-treatment inflicted as a form of punishment for acts the victim or a third person has committed or is suspected of having been committed. The penalty for acts of torture or ill-treatment as per the above domestic definition is set at a maximum of three months of imprisonment, or a penalty or both, which does not reflect the seriousness of the crime nor act as a deterrent.

304. Furthermore, the Evidence Act of 1994, Article 10(1), allows for the admission of evidence obtained by unlawful means “whenever the Court is satisfied with the genuineness of its substance.” Against the backdrop of the existence of broad immunities and based on the factual and legal findings of reasonable grounds to believe that torture and other forms of cruel, inhuman, degrading treatment or punishment have been committed by the RSF and SAF, including its military intelligence, the Fact-Finding Commission is highly concerned over this provision, which means that tainted evidence may be admissible in court and used against the survivor/victim, leading to his, her, or their conviction in breach of the obligations undertaken by the Sudan, in particular under the CAT and international fair trial standards.

⁵⁴⁴ See also A/HRC/50/22, para. 42.

The Fact-Finding Mission believes that this provision encourages the practice of torture with impunity in the Sudan.

305. The Miscellaneous Act of 2020, amending the Criminal Act of 1991, defines an adult as anyone over the age of 18. However, criminal responsibility may be imposed on any child who has attained puberty, with care and reform measures allowed to be imposed on any child over the age of 12. The Fact-Finding Mission is concerned over the possible implications this may have on the position of children in the justice system, including in relation to the possible imposition of the death penalty for crimes committed by children under the command of the armed forces and/or groups, and believes that child combatants should be treated as victims rather than as perpetrators and the minimum age for legal liability for international crimes should be aligned with the international standards as reflected Rome Statute and limited to adults. In this regard, the Fact-Finding Mission further notes with concern that domestic legislation fails to sanction the recruitment and use of children below the age of 18 by armed groups.⁵⁴⁵

306. In relation to modes of liability, the Criminal Act of 1991, amended in 2009, lists several modes, including attempt, abetment, assistance, joint criminal acts, and criminal conspiracy. Its 2009 Amendment also contains language on modes of liability as part of the definition of international crimes, except for war crimes. It criminalizes the commission of, either alone or in association with others, as well as encouraging or supporting the commission of crimes against humanity, and commission, attempt to commit, or incitement to commit, the crime of genocide. The Armed Forces Act of 2007, under Article 153, lists modes of liability for offences against civilians that would constitute war crimes, consisting of commission, attempt or instigation.⁵⁴⁶ However, command and superior responsibility do not seem to be recognized as distinct modes in any domestic law, thereby possibly preventing accountability of commanders and superiors for failing to prevent and punish, and limiting legal grounds for investigation and prosecution to direct perpetrators. The Fact-Finding Mission is concerned that this gap in legislation constitutes a breach of customary international law and is preventative of accountability for perpetrators at all levels, in particular of those most responsible for international crimes.

307. Limitations are further imposed on criminal procedures held at the national level, as laid out in the Criminal Procedure Act of 1991, amended in 2009. Article 3 which provides that any criminal procedures against any Sudanese national accused of violations of international humanitarian law, including core international crimes, may only be initiated before the Sudanese police, General Prosecution or Judiciary. In addition, it prohibits any government body or person from providing any assistance or support to the extradition of any Sudanese national for overseas prosecution. This is problematic in the context of the Sudan considering that the Armed Forces Act of 2007, the Police Forces Act of 2008, and the General Intelligence Law (Amendment) 2024, provide for extensive immunities to all their respective members and for all acts committed in the course of, or related to their duties, which can only be lifted by those higher up in the chain of command. The Fact-Finding Mission received reports indicating a negative record when it comes to the lifting of immunities of government officials in the Sudan.⁵⁴⁷

308. The use of statutes of limitations is incompatible in the present context of the duty of the State to ensure accountability for international crimes. While the 2019 Transitional Constitutional Document, under Article 68, dictates for state agencies to work on implementing accountability measures for crimes against humanity and war crimes on the basis of the principle that there may be no impunity for such crimes, Article 38 of the Criminal Procedure Act of 1991, amended in 2009, maintains a statute of limitations of 10 years for offences punishable by death or imprisonment of a minimum of 10 years. The Fact-Finding

⁵⁴⁵ CCRC/C/OPAC/SDN/CO/1 para. 23.

⁵⁴⁶ The 2009 amendment to the Criminal Act of 1991 does not include any modes of liability for war crimes. While the 2007 Armed Forces Act for the most part refers to the provisions of the Criminal Act of 1991, it remains unclear how this should be interpreted and if the modes of liability listed in the Criminal Act of 1991 can be used to prosecute offences and contraventions under the 2007 Armed Forces Act.

⁵⁴⁷ Redress and SOAS, Domestic Accountability Efforts in Sudan, Policy Briefing, May 2021, see <https://redress.org/publication/policy-briefing-domestic-accountability-efforts-in-sudan/>.

Mission is further concerned over the potential use of general amnesties in any peace negotiation process, which would constitute a breach of the Sudan's international legal obligations. It reiterates that amnesties may not be provided for international crimes regardless of the affiliation of the perpetrator, location of the crime or typology of the victims.

309. In addition, as a vibrant civil society is an important indicator of the functioning of the rule of law in any society and essential to any domestic accountability efforts, the Fact-Finding Mission is concerned over legislation introduced in recent years in the Sudan that limits their activities or bans them altogether. The 2020 amendment to the Cyber Crime Law of 2018 increased penalties for a range of cyber offences, including spreading false news to damage the reputation of the state. This amendment has been heavily criticized and concerns raised over its effect on civil society and resulting shrinking of the online civic space.⁵⁴⁸ Furthermore, Ministerial Decree No. 1 of 2024 dissolved all change and service committees in the regions and states, reportedly effectively banning all civil society groups including the Emergency Response Rooms and Forces for Freedom and Change. Previous decrees issued under Emergency Decree No. 3/2021 dissolving the trade unions, professional organizations and their steering committees, remained in force.⁵⁴⁹ The Fact-Finding Mission is highly concerned over these measures that are indicative of the Sudan lacking a healthy civil society needed to ensure their participation as well as that of victims/survivors in any accountability process at the national level.

Impact of the conflict on the justice system

310. In terms of judicial and legal infrastructure, the Fact-Finding Mission received information on the destruction of government buildings and records, in particular in Khartoum and the Darfur States, by the RSF.⁵⁵⁰ Some pointed to a systematic attack on all institutions, including courts, and a pattern of burning of state records by the RSF, in particular judicial and land records.⁵⁵¹ Several interviewees noted the targeting of courts, including El Geneina, Nyala and Zalingei courts, including the destruction of records by way of burning papers.⁵⁵² One interviewee raised concerns about the lack of any digital back-up of court records.⁵⁵³ The Government also noted the systematic destruction of judicial records by the RSF,⁵⁵⁴ and indicated that the Public Prosecution had "taken measures to retrieve data in lawsuits opened in war-affected areas."⁵⁵⁵ Prisons were also attacked in several locations and those convicted of common crimes were reportedly released by the warring parties, demonstrating the breakdown of the rule of law.

311. Lawyers were targeted by both the RSF and SAF. One victim recalled that he was detained and severely tortured by the RSF and questioned about his contacts with other lawyers.⁵⁵⁶ He later faced interrogation by the SAF by reason of his legal profession. Another human rights lawyer indicated that he received death threats and that his legal offices were subsequently attacked and destroyed.⁵⁵⁷ A further interviewee documented 10 cases of killings of lawyers by the RSF, and over 35 arrested.⁵⁵⁸ Another interviewee recalled how his lawyer friend was detained and beaten by the RSF while being questioned about his human rights work.⁵⁵⁹ Yet another victim was arrested, detained, interrogated over 20 times, and severely tortured, including threatened with rape, by the SAF Military Intelligence while being accused of documenting human rights violations.⁵⁶⁰

⁵⁴⁸ A/HRC/50/22, para. 12.

⁵⁴⁹ A/HRC/53/19, paras. 9-10.

⁵⁵⁰ FFMS-D-001282; FFMS-D-1723; FFMS-D-001417; FFMS-D-1431.

⁵⁵¹ FFMS-D-001418; FFMS-D-001425.

⁵⁵² FFMS-D-001417, FFMS-D-001425, FFMS-D-001431.

⁵⁵³ FFMS-D-001431.

⁵⁵⁴ A/HRC/55/G/2, page 7.

⁵⁵⁵ A/HRC/55/G/2, section G, page 10.

⁵⁵⁶ FFMS-D-001285.

⁵⁵⁷ FFMS-D-001319.

⁵⁵⁸ FFMS-D-001417.

⁵⁵⁹ FFMS-D-001281 and FFMS-D-001723; FFMS-D-001285.

⁵⁶⁰ FFMS-D-001410.

312. Several victims spoke of harassment, arrest, detention and torture and other forms of ill-treatment against lawyers and other individuals supporting documentation and accountability efforts, including journalists, human rights defenders, and Resistance Committee and Emergency Response Room members, by both the RSF and SAF. They were among others accused of siding with the opposing side to the conflict, documenting and reporting on their activities, conducting human rights work and/or being affiliated to any legal and/or human rights organization.⁵⁶¹ One interviewee noted the systematic targeting of civil society, especially those opposing the war: “Everyone needs to pick a party at this point. If you are not with either party, they will consider you to be against them and target you.”⁵⁶² As a result, many lawyers, human rights defenders, activists and other professionals supporting accountability efforts were forced to flee the country.⁵⁶³

313. In relation to sexual and gender-based violence specifically, the Fact-Finding Mission received concerning allegations that human rights defenders, journalists, and others, including Emergency Response Room volunteers, working to document and respond to gender-based violence, have been targeted in relation to their activities with death threats, sexual violence and torture by the RSF⁵⁶⁴ and intimidation, arrest and rape threats by the SAF.⁵⁶⁵ According to United Nations Experts, “From January to June 2024, at least nine women human rights defenders and activists were targeted by parties to the conflict”.⁵⁶⁶ This pattern has however not emerged with the current conflict; rather it finds its roots under the so-called ‘public order regime’ that disproportionately affected women human rights defenders, and intensified in 2019 with women activists at the forefront of the protests advocating for civilian rule and women’s rights, which were repressed by the RSF along with other government security forces, including the intelligence services.

314. The Fact-Finding Mission further received credible information indicating that lawyers who remain in the Sudan are facing difficulties in exercising their functions, due to continued harassment, monitoring, targeting, and scrutiny by security actors. They also face challenges in providing adequate legal defense to the complex criminal cases brought forward by the authorities as part of the National Committee of Investigation on Human Rights Violations, War Crimes, and Violations by the Rebel Rapid Support Forces and Other Crimes, in SAF controlled areas since the start of the conflict. Lawyers providing legal assistance to civilians in such cases may reportedly face arrest over alleged affiliation or support to the RSF.

315. The Fact-Finding Mission is gravely concerned over the breakdown of the rule of law as demonstrated by the destruction caused by the ongoing conflict to the legal infrastructure and justice system of the Sudan against the backdrop of pre-existing gaps in the domestic legislation as outlined above. It is particularly concerned about disruption to the functioning of national institutions, including the police, prosecution and judiciary, as well as the targeting of lawyers and other professionals involved in promoting and protecting human rights by both sides to the conflict, including arrest, detention, death threats, sexual violence and torture, and the severe impact this has and will continue to have on the functioning of the rule of law in the Sudan and consequently on victims and survivors of violations, including of rape and other forms of sexual violence. The looting and destruction of court records, citizens and land registries and similar files undermine not only state institutions, but also individual rights.

⁵⁶¹ FFMS-D-001244; FFMS-D-001261; FFMS-D-001268; FFMS-D-001281; FFMS-D-001285; FFMS-D-001301; FFMS-D-001304; FFMS-D-001320; FFMS-D-001351; FFMS-D-001410.

⁵⁶² FFMS-D-001347.

⁵⁶³ FFMS-D-001281; FFMS-D-001285; FFMS-D-001723.

⁵⁶⁴ FFMS_0089; FFMS-D-001301; FFMS-D-002127.

⁵⁶⁵ FFMS_0089.

⁵⁶⁶ <https://www.ohchr.org/en/press-releases/2024/08/sudan-experts-call-immediate-support-survivors-gender-based-violence-and-end>.

Accountability mechanisms in SAF controlled areas

316. On 21 July 2023, the Sudanese authorities established a National Committee of Investigation on Human Rights Violations, War Crimes, and Violations by the Rebel Rapid Support Forces and Other Crimes by Presidential Decree No. 143 of 2023 under the auspices of the Attorney-General.⁵⁶⁷ The National Committee is “responsible for investigating all crimes and violations resulting from the insurgence of the Rapid Support Forces,”⁵⁶⁸ and includes representatives from the General Intelligence Service and Military Intelligence, the Sudanese Police Force and the Ministries of Justice and Foreign Affairs.⁵⁶⁹ It is mandated to receive reports from citizens and those affected, collect evidence and proof of, and list and document all violations and crimes committed by the RSF since 15 April 2023. It may further “summon any individual for investigation and prosecution if they are found to be involved or collaborating in the crimes and violations committed by the rebel Rapid Support Forces,” and take all necessary legal proceedings, domestically and internationally, as well as refer criminal cases to the judiciary for provision of remedies.⁵⁷⁰

317. According to the Sudanese authorities, as of 18 June 2024, the number of registered criminal cases had reached 12,470 and 346 arrest warrants had been issued against the “commanders and employees” of the RSF. The Sudanese authorities also indicated that 65 cases had been tried or their trial was ongoing, including for the offences of collaboration or suspected affiliation to the RSF, waging war against the state and participation in a terrorist organization. Of the 65 cases, 4 remained under trial, 27 were dismissed, and 32 were found guilty, of which 10 were sentenced to death by hanging and 4 to life imprisonment, and others received sentences of up to 20 years in prison. The Fact-Finding Mission notes, based on the list included in the progress report⁵⁷¹, that only two of these 65 cases appear to include charges of international crimes and that these remain under trial. The Fact-Finding Mission received information that the cases brought forward by the National Committee target Sudanese civilians for their activities as lawyers, humanitarians, grassroots activists, human rights defenders, or Emergency Response Rooms. This is indicative of the National Committee being involved in selective justice, primarily targeting activists perceived as RSF affiliates.

318. In this context, the SAF and police forces previously issued two mobile “Balagh” applications for documenting and reporting on crimes committed by the RSF, including on its presence and movements.⁵⁷² The Fact-Finding Mission is highly concerned over the use of the civilian population to report on the movements of opposing parties, which it believes has contributed to the instrumentalization of ordinary Sudanese citizens in the conflict and resulted in their targeting by both sides, including on accusations of being spies for the other side or otherwise supporting or being affiliated to their opponent. The Fact-Finding Mission recognizes this as a key feature of the conflict since mid-April 2023 requiring immediate attention.

319. A second Committee was established by the authorities by Transitional Sovereignty Council Decision No. 82 of 2024, under the auspices of the Minister of Justice, focusing on international lawsuits including submission of information on RSF crimes to the International Criminal Court.⁵⁷³ A coordination and liaison office with the Court was reportedly set up as part of the latter’s efforts.⁵⁷⁴ In his statement to the Security Council of 5 August 2024, while noting his Office finally received cooperation from the Sudan, the Prosecutor of the

⁵⁶⁷ See progress report circulated by the Sudanese authorities in the context of the 56th session of the Human Rights Council (A/HRC/56/G/4), available at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/56/Pages/Communications%20from%20government.s.aspx>.

⁵⁶⁸ A/HRC/56/G/4, pages 1/50 and 2/50.

⁵⁶⁹ A/HRC/56/G/4, pages 1/50 and 2/50.

⁵⁷⁰ A/HRC/56/G/4, pages 2/50.

⁵⁷¹ A/HRC/56/G/4, pages 2/50.

⁵⁷² In May 2023, see A/HRC/55/G/2, page 6; see also <https://suna-sd.net/posts/Armed-Forces-develops-an-application-for-reporting-crimes-and-violations-of-RSF-rebel-militia>.

⁵⁷³ A/HRC/55/G/22, page 12.

⁵⁷⁴ A/HRC/55/G/2, page 12.

International Criminal Court indicated that some requests for assistance were actioned while others remained pending, and asked for cooperation by the authorities to expedite them.⁵⁷⁵

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

Accountability mechanisms in RSF controlled areas

321. The RSF, including its leader Lieutenant General Mohamed Hamdan Dagalo himself, issued a number of statements in which it expressed its unwavering commitment to international humanitarian law and fundamental principles of human rights, and to ensure that those who violate those laws be brought to justice. For instance, on 2 August 2023, the RSF noted “its rejection of any or assaults against civilians during the ongoing war, whether by RSF personnel or any other party”, adding that, without exception, all individuals found guilty of committing such crimes must be held accountable before the law.⁵⁷⁶ This announcement further refers to a call between RSF Second Commander, Lieutenant General Abdel Rahim Hamdan Dagalo and Special Representative of the United Nations Secretary-General on Sexual Violence, Pramila Patten, during which the RSF Second Commander highlighted the commitment of the RSF to abide by these principles, as well as the importance of cooperation between the RSF and the United Nations to safeguard civilians’ safety and prevent any violations or abuses.⁵⁷⁷

322. On 24 December 2023, the RSF also posted an official video on the RSF official social media account, emphasising that any violations or misconduct against innocent civilians will not be tolerated, and expressing commitment to the protection of civilians in coordination with community committees in their areas of control. The statement further confirmed that a militia involved in robbing and terrorizing citizens and stealing their property had been identified, and would be tracked and dealt with; and that the RSF leadership has reiterated strict instructions to handle any misconduct within the forces and to subject those responsible to immediate court-martial.⁵⁷⁸

323. In a response of 19 January 2024 to a joint communication by the United Nations Special Procedures concerning allegations of repeated widespread sexual violence, harassment and abuse by the RSF against women and girls, the RSF announced that it had established a “Commander Fudail Investigative Committee” tasked with investigating all criminal activities in areas under its control.⁵⁷⁹ In response to a report by Human Rights Watch on widespread sexual violence committed in the capital of Khartoum by the RSF, the RSF further provided, among others, a copy of its code of conduct, rules of engagement, and a decision with instructions to all competent departments and commanders of the RSF on the prevention of gross violations of human rights and to abide by international humanitarian law signed by General Mohamed Hamdan Dagalo.⁵⁸⁰

324. On 31 August 2024, General Mohamed Hamdan Dagalo announced on social media that, on that same day, he had issued an extraordinary administrative order directed to all forces, including the newly formed Civilian Protection Unit, containing several obligations specifically related to enhancing civilian protection and facilitating the delivery of humanitarian aid. He ordered all commanders at all levels to comply with the order and

⁵⁷⁵ <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc- united-nations-security-council-situation-darfur-2>.

⁵⁷⁶ Rapid Support Forces - قوات الدعم السريع on X: "Media Statement by the RSF", at: <https://twitter.com/RSFSudan/status/1686831688989474816?s=20>.

⁵⁷⁷ Ibid.

⁵⁷⁸ <https://x.com/RSFSudan/status/1738910618537582750?s=09>.

⁵⁷⁹ Response to Special Procedures Communication OTH 101/2023.

⁵⁸⁰ <https://www.hrw.org/news/2024/07/28/sudan-widespread-sexual-violence-capital>.

follow the organisational rules set out in the RSF Law, the rules of engagement, and the conduct rules during combat, in accordance with the law and principles of international humanitarian law. He also stated: “Anyone who violates these orders will be subject to legal accountability.”⁵⁸¹

325. Whilst these announcements may sound promising, to date, effective implementation of any of the commitments is lacking, and human rights law and international humanitarian law continue to be violated. This is evidenced by the findings in A/HRC/57/23 and this CRP, as well as recent events around El Fasher, which potentially implicate the RSF in continuing violations of human rights law and international humanitarian law. Whether this is due to a lack of control or genuine will to prevent atrocities from being committed by the RSF or its allied militias, needs to be further investigated. A number of sources have indicated that the RSF senior leadership is aware of the shortcomings in discipline but not willing to impose a more stringent approach in order to prevent its alliance from fracturing.⁵⁸²

326. In terms of the RSF’s claimed efforts to hold alleged RSF human rights violators to account, it also remains to be seen how genuine and/or effective those efforts are. In this regard, the Fact-Finding Mission notes with concern the observations of the Prosecutor of the International Criminal Court, in his 30 January 2024 update to the Security Council, that whilst his Office had received the names of individuals that the RSF contended were part of an investigative committee, no information had been transferred from the RSF to his Office, either in relation to allegations against the RSF or in relation to any allegations regarding the SAF, nor any other affiliated or related armed actors.⁵⁸³

327. The Fact-Finding Mission has received some information that, from 2023, the RSF has undertaken some attempts to create a rudimentary military police and justice system through an RSF Committee to Address Violations (sometimes also referred to as the Committee to Address Negative Phenomena) and an RSF field court. But apart from isolated instances, these institutions seem to have been rarely used to ensure discipline among RSF fighters in the field and curb their abuses against civilians.

328. The Fact-Finding Mission has further received reports indicating the establishment by the RSF of its own administration in areas under its control, including martial courts,⁵⁸⁴ as well as an investigative body to look into reported mass killings committed in Ardamata. The Fact-Finding Mission is looking further into this matter.

X. Options for accountability and access to justice for victims

329. For peace to sustain in the Sudan, there is a need for accountability. “The cycle of conflict will continue,” stated one interviewee to the Fact-Finding Mission, indicating that without accountability the victims would at some point come to take back their lands and take justice in their own hands.⁵⁸⁵ Based on previous experiences, including the 2005 creation by the Sudanese authorities of the Special Criminal Court on Events in Darfur as a substitute to the International Criminal Court,⁵⁸⁶ and the lack of timely implementation of the 2020 Juba Peace Agreement, many interviewees, including survivors of rape and other forms of sexual violence, voiced their complete lack of trust in the ability and willingness of the domestic system to deliver justice. In expressing their wish for justice and peace in the Sudan, and for perpetrators to be held to account, they requested the Fact-Finding Mission to amplify their wish for a specific accountability mechanism, such as an international criminal tribunal to be set up to investigate and prosecute international crimes committed by all parties to the current conflict comprising both the RSF and SAF and affiliated groups. While stressing that the

⁵⁸¹ Announcement made on X account: Mohamed Hamdan Daglo (@GeneralDaglo) on X, 31 August 2024.

⁵⁸² FFMS-D-001692; FFMS-D-000054; FFMS-D-001282; FFMS-D-001293; FFMS-D-002055; FFMS-D-001402; FFMS-D-001436.

⁵⁸³ <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc-united-nations-security-council-situation-darfur-1>

⁵⁸⁴ In a video announcement, posted on the RSF official social media account on 24 December 2023, the RSF refers to martial courts. See <https://x.com/RSFSudan/status/1738910618537582750?s=09>.

⁵⁸⁵ FFMS-D-001282 and FFMS-D-1723.

⁵⁸⁶ S/2005/403.

Sudan was currently unable and unwilling to investigate and prosecute international crimes, some voiced their wish for legal reforms at the domestic level, including to align domestic laws with international laws and standards and to guarantee the independence of the judiciary, in the longer term so that the Sudan would be able to take over the investigation and prosecution international crimes in the future.

330. Many Sudanese asked the Fact-Finding Mission for protection of their rights and indicated that while having fled the Sudan, they still did not feel safe and that many lawyers, human rights defenders, doctors and other professionals continued to receive threats by the parties to the conflict. When asked if they would be willing to participate in any accountability process, many interviewees indicated that they would be willing to do so if protection could be provided.

331. The Fact-Finding Mission considers that only a comprehensive transitional justice process with appropriately endowed mechanisms can address the impunity and justice gaps in the Sudan and provide remedies and reparations for victims and survivors. In this context, the 2019 African Union Transitional Justice Policy Framework⁵⁸⁷ and the Guidance Note of the Secretary-General on Transitional Justice⁵⁸⁸ incorporating the four pillars of transitional justice: justice, truth, reparations and guarantees of non-repetition are of high relevance to the situation in the Sudan today.⁵⁸⁹

332. With regard to the first pillar, one mechanism already in place is the continuing jurisdiction of the International Criminal Court over crimes committed in Darfur since 1 July 2002. The role of the Court remains crucial, particularly in light of the decades of prevailing impunity. Since the Security Council referral, the International Criminal Court has issued seven warrants of arrest. In one case the charges were not confirmed, another case was terminated following the death of the suspect, and four others, including former President Omar Al Bashir, remain at large. The trial against one individual, Ali Muhammad Ali Abd-Al-Rahman who was transferred to the Court on 9 June 2020, is ongoing. For the Prosecutor of the Court to be able to deliver on its mandate and expectations of victims, support by all actors, including financial and cooperation, is required.⁵⁹⁰

333. Since the International Criminal Court is focusing on only a few cases involving those most responsible for international crimes, other pathways to justice should also be explored to ensure accountability by perpetrators at all levels across the Sudan. Different options can be considered ranging from fully international to hybrid and internationalized judicial mechanisms. An example of the former is the United Nations International Criminal Tribunal for Rwanda, which was set up by the Security Council pursuant to Resolution 955 (1994). The Special Court for Sierra Leone followed a hybrid model with a mixture of international and domestic law and staffing. It was established by agreement between the United Nations and Sierra Leone and based in country and operated alongside a Truth and Reconciliation Commission. An example of an approach straddling a hybrid and internationalized set up is provided by the Special Criminal Court in the Central African Republic, which was established under domestic legislation. It enjoys primacy over national jurisdiction, is composed of national and international judges and has a special police unit attached to the Court. The independence of the Prosecutor was also included as a critical element to this set up. A hybrid court was recommended by the African Union Panel on Darfur in 2005, but not implemented. An example of an internationalized mechanism is the Extraordinary African Chambers, set up in 2012 pursuant to an agreement between Senegal

⁵⁸⁷ African Union Transitional Justice Policy, available at https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf.

⁵⁸⁸ Guidance Note of Secretary General on Transitional Justice: A Strategic Tool for People, Prevention and Peace, available at <https://www.ohchr.org/en/documents/tools-and-resources/guidance-note-secretary-general-transitional-justice-strategic-tool>.

⁵⁸⁹ See https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf ; <https://www.ohchr.org/en/documents/tools-and-resources/guidance-note-secretary-general-transitional-justice-strategic-tool>.

⁵⁹⁰ <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc-united-nations-security-council-situation-darfur-1>

and the African Union with a mandate to prosecute international crimes committed in Chad between 1982 and 1990.⁵⁹¹

334. Whichever modalities are deemed most suitable for such a future mechanism, for it to succeed in the implementation of its accountability mandate, it will need to receive international support, including political, financial and technical support, cooperation by relevant stakeholders, including States, civil society, survivors/victims and witnesses, and have access to survivors/victims. States are further encouraged to use the universal jurisdiction tool to pursue individuals suspected of having committed international crimes.

335. Second, the root causes of the violations that have been chronically hampering the Sudan from respecting, protecting and fulfilling the human rights of its people must be thoroughly identified and fully addressed. This could be achieved through a genuine truth-seeking process to address the scale of violations committed and their impact on individuals and communities. Truth commissions can be established alongside the proposed judicial mechanism to enhance national dialogue, with the ability to refer cases to the judicial mechanism as appropriate. To foster a culture of accountability, it should not be endowed with the power to provide immunity or amnesty to those responsible for international crimes. Already in 2005, a broad consultative process, including with civil society and victim groups leading to the establishment of a truth and reconciliation commission, was recommended by the 2005 COI Darfur. This recommendation was echoed by the African Union Panel on Darfur. These recommendations were not acted on.

336. Third, reparation for serious violations of human rights and international humanitarian law, including through restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition as outlined in the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,⁵⁹² is critical to help victims, survivors, families and communities overcome the devastating impact of the violence. In several conflicts, reparations have proven key to addressing the plight of victims, survivors and their families. There are several models that can be considered in this regard, including by including providing reparations as an integral part of a mandate of a truth commission, such as in Morocco, Peru or South Africa, or through a separate office as in Sri Lanka. The question of reparations is highly relevant to the situation in the Sudan today and continues to be key to ensuring justice for victims. The 2005 Darfur COI Darfur made the case for reparations, recommending the establishment of an International Compensation Commission, but this did not happen.

337. Meanwhile, the Fact-Finding Mission has heard from Sudanese civil society, human rights defenders, activists, survivors, witnesses, and the legal community about the overwhelming and immediate need for assistance to victims and survivors of the conflict in the Sudan within the country and those displaced. A dedicated entity should be established for these purposes that can also work towards awarding the victims interim reparative measures.

338. Fourth, as part of guarantees of non-repetition, legal and institutional reforms, in particular of the justice and security sectors in the Sudan will need to be prioritized along with accountability within any transitional justice process for the country to transition from recurring cycles of violence and conflict to a stable and democratic governance in line with the aspirations expressed by the Sudanese people.

XI. Conclusions and Recommendations

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

⁵⁹¹ See for instance <https://www.hrw.org/news/2013/09/02/statute-extraordinary-african-chambers> and <https://www.hrw.org/tag/hissene-habre>.

⁵⁹² <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>.

and international humanitarian law. They include violations in the context of airstrikes and shelling of private property, schools, medical centers and other objects indispensable for the survival of the civilian population, looting, ethnic based attacks, sexual violence, lack of protection of children's rights, arbitrary detention, torture, suppression of freedom of expression, obstruction of humanitarian assistance and attacks on civil society and human rights defenders. Many of these violations amount to international crimes.

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

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

342. Sudanese people have endured much pain. Their suffering must stop, and their human rights must be protected. This cannot be done without ending the fighting and silencing the guns. The Fact-Finding Mission is particularly concerned by the looming famine and rampant food insecurity in various parts of the Sudan, including starvation. It applauds the various efforts to bring the parties to the negotiating table. It emphasizes the need for an inclusive and participatory civic dialogue leading to a democratic civilian rule. In this context, it urges any agreement reached, including on a permanent cessation of hostilities, to take the findings and recommendations below into account.

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

- (a) All efforts must be invested in reaching a comprehensive and sustainable ceasefire and the effective delivery of the much-needed humanitarian assistance. To this end, the Fact-Finding Mission notes the agreement on opening the border crossing with Chad in Adré as a step in the right direction.
- (b) The protection of civilians is paramount, and the parties must comply with their obligations under international law. SAF and RSF and their respective allied forces must refrain from directing attacks against civilians or civilian objects, pillage and looting of property and committing outrageous acts against persons including torture, rape and other forms of sexual violence and use and recruitment of children. Ethnically motivated attacks must end. Commanders must issue explicit and detailed instructions to their forces and allied militias to refrain from illegal acts, also in line with their Jeddah Commitments. They must effectively investigate violations and bring the perpetrators to justice. Given the failure of the parties to protect civilians so far, there is an urgent need to deploy an independent force with a specific mandate to protect civilians in the Sudan.
- (c) The fighting will stop once the arms flow stops. Therefore, all states and entities must comply with the existing arms embargo in Darfur pursuant to Security Council Resolution 1556 (2004). This embargo should also be expanded to cover the entire Sudan. The supply of weapons, ammunition, and other logistical or financial support to any of the warring parties must end immediately as there is a risk that those supplying arms may be complicit in grave violations of human rights and humanitarian law. Businesses and private actors active in the Sudan must respect the UN Guiding Principles on Business and Human Rights.

- (d) Forced displacement must end and the communities that host refugees should be supported. The Fact-Finding Mission applauds the generosity of host communities, including in Central African Republic, Chad, Egypt, Ethiopia, Kenya, South Sudan, and Uganda. It calls on the international community to increase its financial and other support for the refugees and the host communities, who themselves have desperate humanitarian needs and expresses its appreciation for those who are already doing so.
- (e) Rape and other forms of sexual violence must end. Women, and youth should also be enabled to meaningfully participate in any peace negotiations or initiatives in line with Security Council Resolution 1325 (2000) to ensure that they take into account their lived experiences and address their concerns. Recruitment and use of children must end, and children must be protected
- (f) The impunity gap in Sudan is among the key root causes of decades of continued violations. The Fact-Finding Mission recommends that the Security Council extends the jurisdiction of the International Criminal Court to cover the entire territory of Sudan. It also urges Sudan to cooperate with the Court through the surrender to it, of all indicted persons, including former President Omar Al-Bashir.
- (g) To fully address accountability and to provide justice to victims, a path towards a comprehensive approach to transitional justice must be pursued based on inclusive dialogue and genuine consultations. The establishment of a separate international judicial mechanism working in tandem and complementarity with the International Criminal Court, as well as a truth commission. Meanwhile, there is an urgent need to establish a victim support and reparations office.
- (h) Finally, Sudan comprises a diverse population, endowed with ample resources. Its people deserve to live in peace and prosperity. Many Sudanese stressed their wish to live in a peaceful, inclusive, and human-rights-oriented Sudan. They spoke of a representative and participatory government, encompassing all communities, where the equal rights of all citizens are respected, irrespective of their race, ethnicity, gender, or economic status. This aspiration must be supported by the international community charting the way towards equality, justice and sustainable peace in the Sudan.
