

To Permanent Representatives of Member and Observer States of the United Nations (UN) Human Rights Council (Geneva, Switzerland)

1 September 2023

***The Human Rights Council should establish an independent mechanism on Sudan***

Excellencies,

Following the outbreak of armed conflict in Khartoum and other areas of Sudan, on 15 April 2023, over one hundred civil society organisations called on States to convene a special session of the UN Human Rights Council and to establish an independent mechanism tasked with investigating human rights violations and abuses committed by all parties and advancing accountability in Sudan.<sup>1</sup>

During a special session held on 11 May 2023, the Council adopted resolution S-36/1,<sup>2</sup> which enhanced the mandate of the designated Office of the UN High Commissioner for Human Rights (OHCHR) Expert on Sudan. The resolution also enhanced monitoring and documentation of human rights violations and abuses committed since the 25 October 2021 military takeover, including those arising directly from the current conflict, as well as reporting to the Council.

Since the Council acted, however, violence has continued to escalate. Fighting between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) shows no sign of abating.<sup>3</sup> Human rights violations and abuses and violations of international humanitarian law by all parties to the conflict have had a serious impact on civilians, with thousands now reported dead, injured, or missing.<sup>4</sup> Actual figures are likely to be much higher.<sup>5</sup> Millions are experiencing high levels of acute food insecurity.<sup>6</sup>

In West Darfur, the violence has taken on an increasingly interethnic dimension that is reminiscent of the crimes committed twenty years ago, some of which may amount to crimes under international law.<sup>7</sup> The RSF and their allied Arab militias have deliberately targeted non-Arab communities, notably the Massalit

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<sup>1</sup> See DefendDefenders et al., "Sudan: Urgently convene a special session of the Human Rights Council and establish an investigative mechanism," 26 April 2023, <https://defenddefenders.org/sudan-urgently-convene-a-special-session-of-the-human-rights-council-and-establish-an-investigative-mechanism/>, as well as Human Rights Watch, "UN Human Rights Council Should Respond to Sudan Crisis," 28 April 2023, <https://www.hrw.org/news/2023/04/28/un-human-rights-council-should-respond-sudan-crisis> (accessed on 24 August 2023).

<sup>2</sup> Available at: <https://www.ohchr.org/en/hr-bodies/hrc/special-sessions/session36/36-special-session>

<sup>3</sup> Sudan Tribune, "Clashes escalate as Sudanese army and RSF vie for armoured corps control," 22 August 2023, <https://sudantribune.com/article276425/> (accessed on 24 August 2023).

<sup>4</sup> See for example Amnesty International, "Sudan: 'Death came to our home'; War crimes and civilian suffering in Sudan," 3 August 2023, <https://www.amnesty.org/en/documents/afr54/7037/2023/en/> (accessed on 31 August 2023).

<sup>5</sup> Reuters, "Sudan war's death toll in Khartoum is double official figures, independent tallies show," 28 July 2023, <https://www.reuters.com/world/africa/sudan-war-kills-more-than-twice-many-civilians-khartoum-officially-reported-2023-07-28/> (accessed on 24 August 2023). See also African Centre for Justice and Peace Studies (ACJPS), "Urgent call to Sudanese authorities, RSF and SAF to account for thousands of citizens who have gone missing since the armed conflict erupted," 28 June 2023, <http://www.acjps.org/urgent-call-to-sudanese-authorities-rsf-and-saf-to-account-for-thousands-of-citizens-who-have-gone-missing-since-the-armed-conflict-erupted/> (accessed on 24 August 2023).

<sup>6</sup> France 24, "More than six million people 'one step away from famine' in Sudan," 3 August 2023, <https://www.france24.com/en/africa/20230802-soaring-famine-in-war-torn-sudan-to-impact-over-20-million-people> (accessed on 24 August 2023).

For an overview of the humanitarian situation, see UN Office for the Coordination of Humanitarian Affairs (OCHA), "Sudan," [https://www.unocha.org/sudan?gclid=EAIaIQobChMIou3R-K71gAMVjtV3Ch2twQKwEAAYASAAEgJB4\\_D\\_BwE](https://www.unocha.org/sudan?gclid=EAIaIQobChMIou3R-K71gAMVjtV3Ch2twQKwEAAYASAAEgJB4_D_BwE) (accessed on 24 August 2023).

<sup>7</sup> See among others Human Rights Watch, "Darfur: Rapid Support Forces, Allied Militias Rape Dozens," 17 August 2023, <https://www.hrw.org/news/2023/08/17/darfur-rapid-support-forces-allied-militias-rape-dozens>. For context, see Al Jazeera, "Is history repeating itself in Darfur?", 6 July 2023, <https://www.aljazeera.com/podcasts/2023/7/6/is-history-repeating-itself-in-darfur> (accessed on 24 August 2023).

ethnic group, and destroyed displacement camps and sites, killing and injuring civilians, including those who were fleeing to Chad. Assailants also raped and gang raped dozens of women and girls,<sup>8</sup> while also targeting human rights defenders, including lawyers.<sup>9</sup> Civilian casualties are also reported in other parts of Darfur, including South and North Darfur, where the risk of further harm to displaced communities inhabiting the area warrants greater attention.

The Council's call in May for a cessation of violence, the establishment of full, safe and unhindered humanitarian access, the rehabilitation of basic infrastructure, a negotiated resolution of the conflict, and a recommitment to Sudan's civilian-led transition<sup>10</sup> remains unheeded. Civilians, in particular women and girls, who are at significant risk of sexual and gender-based violence throughout the country,<sup>11</sup> continue to bear the brunt of the conflict.

Impunity is at the heart of the current crisis, and addressing it should be a priority. The failure of the international community to hold accountable those responsible for international crimes in Darfur decades ago has sent a dangerous message to all parties that they can continue to commit crimes with impunity. Though the UN Security Council referred the situation in Darfur to the International Criminal Court (ICC),<sup>12</sup> the Council's passivity in the face of Khartoum's obstruction to the investigation sharply limited progress on cases, especially enforcing the arrest warrants issued by the ICC and gaining custody of fugitives, including former president Omar al-Bashir.

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The UN Special Adviser on the Prevention of Genocide, the OHCHR, and the UN Special Representative for Sudan have all emphasised the preventive value of holding perpetrators to account, with the former stressing that “[w]hen perpetrators of past atrocities are not held accountable for their action, we are doomed to see history repeat itself. We need to unequivocally support accountability processes as we witness the resumption of violence across Sudan, including in Darfur, Blue Nile, and North and South Kordofan states.”<sup>13</sup>

African bodies and mechanisms made strong pronouncements in support of investigations and accountability for grave violations. These include the Intergovernmental Authority on Development (IGAD), the African Union (AU), and the African Commission on Human and Peoples' Rights (ACHPR). In a Communiqué, the IGAD Quartet Group of Countries for the Resolution of the Situation in the Republic of Sudan said it was “[a]ppalled by the reports of widespread serious human rights abuses including sexual violence targeting girls and women” and “[committed] to work closely with the international community

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<sup>8</sup> Amnesty International, “Sudan: ‘Death came to our home’,” *op. cit.*; Human Rights Watch, “Darfur: Rapid Support Forces, Allied Militias Rape Dozens,” *op. cit.*

<sup>9</sup> Radio Dabanga, “DBA: Four lawyers slain in West Darfur ‘deliberately targeted’,” 21 June 2023, <https://www.dabangasudan.org/en/all-news/article/dba-four-lawyers-slain-in-west-darfur-deliberately-targeted> (accessed on 24 August 2023).

<sup>10</sup> Resolution S-36/1, operative paragraph 2.

<sup>11</sup> UN News, “Rape by Sudan’s RSF militia used to ‘punish and terrorise’ warn rights experts,” 17 August 2023, <https://news.un.org/en/story/2023/08/1139847> (accessed on 24 August 2023).

<sup>12</sup> With resolution 1564 (2004), the UN Security Council requested, *inter alia*, that the Secretary-General establish an international commission of inquiry to investigate reports of violations of [international law] in Darfur by all parties (resolution available on the UN Digital Library, <https://digitallibrary.un.org/record/530567>). The report of the International Commission of Inquiry on Darfur is available at: <https://www.legal-tools.org/doc/1480de/pdf/>

In 2005, the Security Council referred the situation in Darfur to the ICC. See ICC, “Darfur, Sudan: Situation in Darfur, Sudan ICC-02/05,” available at: <https://www.icc-cpi.int/darfur>

The Human Rights Council held a special session on 12-13 December 2006 and adopted decision S-4/101, which mandated a High-Level Mission to assess the human rights situation in Darfur and the needs of the Sudan in this regard (decision available at: <https://www.ohchr.org/en/hr-bodies/hrc/special-sessions/session4/th-special-session>).

<sup>13</sup> “Protect civilians and respect international humanitarian law, says UN Special Adviser as she raises alarm on Sudan conflict: Statement by Alice Wairimu Nderitu, United Nations Special Adviser on the Prevention of Genocide, on the conflict in Sudan,” 13 June 2023, <https://www.un.org/en/genocideprevention/documents/USG+and+Special+Adviser%20Nderitu+Sudan+13+June+2023.pdf> (accessed on 28 August 2023).

to put in place a robust monitoring and accountability mechanism that will be instrumental in bringing perpetrators to justice.”<sup>14</sup>

In a statement to the AU Peace and Security Council, the Chairperson of the AU Commission, Moussa Faki Mahamat, warned that “the risk of ethnic and racial tension and conflicts between local communities around the country is great” and that “[t]he longer the fighting continues, the greater the risk of a complete collapse of Sudan.” Regarding protection of civilians, he added: “We should coordinate the recording of any breaches [...] and warn all parties about the risks they are exposing themselves to, in case of established violations.”<sup>15</sup>

Last, in a resolution adopted at its 76<sup>th</sup> session, the ACHPR said it was “[a]larmed by the many violations taking place in the country, including excessive use of force, extrajudicial, arbitrary or summary executions, unlawful killings, arbitrary arrest and detention, torture, ill-treatment and enforced disappearance, sexual and gender-based violence, violations of freedom of opinion and expression, freedom of peaceful assembly and association, economic and social rights, as well as inter-communal violence” and called on the African Union to take urgent measures to put an end to the conflict in Sudan and restore peace and stability, including “[putting] in place a mechanism for monitoring, documenting and reporting on the perpetration of human rights and international humanitarian law violations by the warring parties including with particular attention to the situation in Darfur.”<sup>16</sup>

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**In this context, and in line with the Council’s mandate to prevent violations and to respond promptly to human rights emergencies, the Human Rights Council should strengthen its action on Sudan. At its upcoming 54<sup>th</sup> session (11 September-13 October 2023), it should adopt a resolution establishing, without further delay, an independent mechanism with a mandate, among other elements, to:**

- (a) Undertake a thorough investigation into all alleged violations and abuses of international human rights law, violations of international humanitarian law and related crimes in Sudan, including those constituting crimes under international law;**
- (b) Establish the facts, circumstances, and root causes of any such violations and abuses;**
- (c) Collect, consolidate, analyse and preserve evidence, including of sexual and gender-based violence and ethnic violence, with a view to ending impunity and supporting future legal proceedings;**
- (d) Identify, where possible, those individuals and entities responsible; and**
- (e) Provide guidance on justice, including criminal accountability, reparations, and guarantees of non-recurrence.**

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<sup>14</sup> IGAD, “Communiqué of the 1st Meeting of the IGAD Quartet Group of Countries for the Resolution of the Situation in the Republic of Sudan,” 10 July 2023, <https://igad.int/communique-of-the-1st-meeting-of-the-igad-quartet-group-of-countries-for-the-resolution-of-the-situation-in-the-republic-of-sudan/>

<sup>15</sup> African Union, “Statement of H.E. Moussa Faki Mahamat, Chairperson of the Commission, on the Situation in the Sudan,” 27 May 2023, <https://au.int/en/pressreleases/20230527/statement-he-moussa-faki-mahamat-chairperson-commission-situation-sudan> (accessed on 24 August 2023). Also see the “Communiqué of the 1156<sup>th</sup> meeting of the PSC, held at the level of Heads of State and Government, on 27 May 2023, on the Situation in Sudan,” available at <https://www.peaceau.org/en/article/communique-of-the-1156th-meeting-of-the-psc-held-at-the-level-of-heads-of-state-and-government-on-27-may-2023-on-the-situation-in-sudan> (accessed on 24 August 2023).

On 19 June 2023, during the Human Rights Council’s 53<sup>rd</sup> session, High Commissioner for Human Rights Volker Türk said that “[t]he people of Sudan were suffering, immeasurably” and that “[t]he reckless, senseless conflict was taking place in a context of total impunity.” He added that Sudan faced “a human rights and humanitarian crisis [...] unfolding at an alarming rate, on a devastating scale and with a complexity not seen before in Sudan” (OHCHR, “High Commissioner for Human Rights: the Reckless, Senseless Conflict in Sudan Has Resulted in a Human Rights and Humanitarian Crisis that Is Unfolding at an Alarming Rate and on a Devastating Scale,” 19 June 2023, <https://www.ohchr.org/en/news/2023/06/high-commissioner-human-rights-reckless-senseless-conflict-sudan-has-resulted-human?sub-site=HRC> (accessed on 23 August 2023).

<sup>16</sup> ACHPR, “Resolution on the serious deterioration of the human rights situation in the Republic of the Sudan as a result of the continuation of the war that broke out on 15 April 2023 – ACHPR/Res.563 (LXXVI) 2023,” 2 August 2023, available at: <https://achpr.au.int/en/adopted-resolutions/563-resolution-serious-deterioration-human-rights-situation-rep>

**As has been the case with other Council-established mechanisms, the mechanism on Sudan should be provided with all the administrative, technical, and logistical support and personnel necessary to enable it to carry out its mandate, in particular in the areas of fact-finding, legal analysis, translation and interpretation, and evidence-collection and preservation, including regarding sexual and gender-based violence and specialized ballistic and forensic expertise.**

**The mechanism should integrate a gender perspective and a survivor-centred approach throughout its work and ensure the complementarity and coordination of its effort with other efforts of the United Nations, the African Union, and other appropriate regional and international entities.**

We thank you for your attention to these pressing issues and stand ready to provide your delegation with further information as required.

Sincerely,

1. Act for Sudan
2. ActionAid
3. Action by Christians for the Abolition of Torture in the Central African Republic (ACAT-RCA)
4. African Centre for Democracy and Human Rights Studies (ACDHRS)
5. African Centre for Justice and Peace Studies (ACJPS)
6. AfricanDefenders (Pan-African Human Rights Defenders Network)
7. Algerian Human Rights Network (Réseau Algérien des Droits de l'Homme)
8. Amnesty International
9. Angolan Human Rights Defenders Coalition
10. Asian Forum for Human Rights and Development (FORUM-ASIA)
11. Atrocities Watch Africa (AWA)
12. Beam Reports – Sudan
13. Belarusian Helsinki Committee
14. Belgrade Centre for Human Rights
15. Borderline-Europe – Menschenrechte ohne Grenzen e.V.
16. Burkinabè Human Rights Defenders Coalition (CBDDH)
17. Burundian Coalition of Human Rights Defenders (CBDDH)
18. Cabo Verdean Network of Human Rights Defenders (RECADDH)
19. Cairo Institute for Human Rights Studies (CIHRS)
20. Cameroon Women's Peace Movement (CAWOPEM)
21. Central African Network of Human Rights Defenders (REDHAC)
22. Centre for Democracy and Development (CDD) – Mozambique
23. Centre de Formation et de Documentation sur les Droits de l'Homme (CDFDH) – Togo
24. CIVICUS
25. Coalition of Human Rights Defenders-Benin (CDDH-Bénin)
26. Collectif Urgence Darfour
27. Confederation of Sudanese Civil Society Organizations
28. Consortium of Ethiopian Human Rights Organizations (CEHRO)
29. CSW (Christian Solidarity Worldwide)
30. DefendDefenders (East and Horn of Africa Human Rights Defenders Project)
31. EEPA – Europe External Programme with Africa
32. Ethiopian Human Rights Defenders Center (EHRDC)
33. FIDH (International Federation for Human Rights)
34. Forum pour le Renforcement de la Société Civile (FORSC) – Burundi
35. Gender Centre for Empowering Development (GenCED) – Ghana
36. Gisa Group – Sudan
37. Global Centre for the Responsibility to Protect
38. Gulf Centre for Human Rights
39. Horn of Africa Civil Society Forum (HoA Forum)
40. Human Rights Defenders Coalition Malawi

41. Human Rights Defenders Network – Sierra Leone
42. Human Rights House Foundation
43. Human Rights Watch
44. Institut des Médias pour la Démocratie et les Droits de l’Homme (IM2DH) – Togo
45. International Bar Association’s Human Rights Institute (IBAHRI)
46. International Commission of Jurists
47. The International Federation of Women Lawyers (FIDA) Africa
48. Interfaith International
49. International Refugee Rights Initiative (IRRI)
50. International Service for Human Rights
51. Ivorian Human Rights Defenders Coalition (CIDDH)
52. Jews Against Genocide
53. Journalists for Human Rights (JHR) – Sudan
54. Justice Africa Sudan
55. Justice Center for Advocacy and Legal Consultations – Sudan
56. Libyan Human Rights Clinic (LHRC)
57. Malian Coalition of Human Rights Defenders (COMADDH)
58. MENA Rights Group
59. Mozambique Human Rights Defenders Network (MozambiqueDefenders – RMDDH)
60. NANHRI – Network of African National Human Rights Institutions
61. National Coalition of Human Rights Defenders – Kenya
62. National Coalition of Human Rights Defenders – Somalia
63. National Coalition of Human Rights Defenders-Uganda (NCHRD-U)
64. Network of Human Rights Journalists (NHRJ) – The Gambia
65. Network of the Independent Commission for Human Rights in North Africa (CIDH Africa)
66. Never Again Coalition
67. New Sudan Council of Churches
68. Nigerien Human Rights Defenders Network (RNDDH)
69. Pathways for Women’s Empowerment and Development (PaWED) – Cameroon
70. PAX Netherlands
71. PEN Belarus
72. Physicians for Human Rights
73. POS Foundation – Ghana
74. Project Expedite Justice
75. Protection International Africa
76. REDRESS
77. Regional Centre for Training and Development of Civil Society (RCDCS) – Sudan
78. Rencontre Africaine pour la Défense des Droits de l’Homme (RADDHO)
79. Réseau des Citoyens Probes (RCP) – Burundi
80. Rights Georgia
81. Rights for Peace
82. Rights Realization Centre (RRC) – United Kingdom
83. Salam for Democracy and Human Rights
84. Society for Threatened Peoples
85. Southern Africa Human Rights Defenders Network (Southern Defenders)
86. South Sudan Human Rights Defenders Network (SSHRDN)
87. Stop Genocide Now
88. Strategic Initiative for Women in the Horn of Africa (SIHA)
89. Sudanese American Medical Association (SAMA)
90. Sudanese American Physicians Association (SAPA)
91. Sudanese American Public Affairs Association (SAPAA)
92. Sudanese Defenders Center for Legal Aid
93. Sudanese Human Rights Initiative (SHRI)
94. Sudanese Human Rights Monitor (SHRM)
95. Sudanese Lawyers Democratic Front

96. Sudanese Women Rights Action
97. Sudan Evangelical Community Council
98. Sudan Human Rights Hub
99. Sudan NextGen Organization (SNG)
100. Sudan's Doctors for Human Rights
101. Sudan Social Development Organisation
102. Sudan Unlimited
103. SUDO UK
104. The Tahrir Institute for Middle East Policy (TIMEP)
105. Tanzania Human Rights Defenders Coalition (THRDC)
106. The Institute for Social Accountability (TISA)
107. Togolese Human Rights Defenders Coalition (CTDDH)
108. Tunisian League for Human Rights (LTDH)
109. Waging Peace
110. Women Civil & Political Groups (Mansam)
111. World Council of Churches
112. World Evangelical Alliance
113. World Organisation Against Torture (OMCT)
114. Zimbabwe Lawyers for Human Rights