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Ending torture, seeking justice for survivors



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RUINING A COUNTRY, DEVASTATING ITS PEOPLE

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

Report Summary

September 2023



EXECUTIVE SUMMARY

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

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

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

Amidst the fighting, there is a large body of credible (and evolving) prima facie evidence implicating both sides in the commission of serious human rights abuses and possible war crimes. For instance:

- a) Both the Rapid Support Forces and the Sudanese Armed Forces' Military Intelligence are accused of arbitrary detaining numerous civilians (holding an estimated 5,000 and 1,500 detainees respectively). Some of the cases may amount to enforced disappearance. There are also numerous reports of torture and ill-treatment inflicted on those in detention;
- b) The warring parties (particularly the Rapid Support Forces) are implicated in numerous cases of rape and other sexual and gender-based violence, particularly in Khartoum and Darfur. While at least 108 cases have been documented by Sudan's Combating Violence Against Women Unit, the Unit estimates that the cases it has registered likely represent approximately 2% of actual numbers;
- c) Both forces are accused of deliberately targeting civilians and protected objects, including hospitals, places where the sick and wounded are treated, buildings dedicated to religion, and historical monuments. The Rapid Support Forces are also implicated in numerous hostage-taking cases and appear to have intentionally occupied civilian-populated buildings as a means of trying to prevent its forces from being targeted by the Sudanese Armed Forces – resulting in increased devastation to civilian life and infrastructure; and
- d) The Rapid Support Forces has attacked at least 26 cities, towns, and villages in Darfur; employing scorched earth tactics, including destroying hospitals and other civilian structures, and assaulting, raping, and killing non-Arab civilians. There is strong evidence that these attacks have been deliberately targeted against the Masalit and other non-Arab groups.

There are reasonable grounds to conclude that some of the patterns of violations being reported in Sudan constitute crimes against humanity. As described above, there are also credible accounts of conduct in Darfur that could possibly amount to genocide.

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

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

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

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

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

RECOMMENDATIONS

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

To the parties to the armed conflict:

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

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

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

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

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

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

To the Prosecutor of the International Criminal Court:

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

To all States:

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

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Photo cover credit: REUTERS/Mohamed Nureldin Abdallah
Aerial bombardment in a neighbourhood in Bahri (Khartoum North), during clashes between the paramilitary RSF and the army in May 2023.

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