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"We Demand Justice, We Deserve Justice"

Accountability Processes for Victims of Sudan



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Accountability Processes for Victims of Sudan

LIST OF ACRONYMS AND ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
ACtHPR	African Court on Human and Peoples' Rights
ACJHR	African Court of Justice and Human Rights
AMIS	African Union Mission in Sudan
AU	African Union
AUHLP-Sudan	African Union High Level Panel on the Resolution of the Conflict in Sudan
AUPD	African Union High-Level Panel on Darfur
CRSV	Conflict-related sexual violence
EU	European Union
FFC	Forces for Freedom and Change
FFM	Fact-Finding Mission
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
JEM	Justice and Equality Movement
JIT	Joint Investigation Team
JPA	Juba Peace Agreement
OSINT	Open-Source Intelligence
OTP	ICC Office of the Prosecutor
PoE	Panel of Experts
PSC	AU Peace and Security Council
RCCNS	Revolutionary Command Council for National Salvation
RSF	Rapid Support Forces
SAF	Sudan Armed Forces
SCCED	Special Criminal Court on the Events in Darfur
SLM/A	Sudan Liberation Movement/Army
SPLM	Sudan People's Liberation Movement
TMC	Transitional Military Council
TSC	Transitional Sovereignty Council
TRC-South Africa	Truth and Reconciliation Commission, South Africa
UNAMID	African Union-United Nations Hybrid Operation in Darfur
UNISFA	United Nations Interim Security Force for Abyei
UNITAMS	United Nations Integrated Transition Assistance Mission in the Sudan
UNMIS	United Nations Mission in Sudan
UN Sudan FFM	Independent International Fact-Finding Mission for the Sudan

Executive Summary

This report highlights the urgent need for accountability and emphasises the central role of victims in shaping justice efforts. It assesses the effectiveness of existing accountability mechanisms at the national, regional and international levels and proposes actionable recommendations to ensure justice for victims of the ongoing conflict in Sudan.

The latest outbreak of violence, which erupted between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) in April 2023, exacerbated existing human rights violations, triggering a humanitarian catastrophe with severe economic consequences. With over 12.5 million people displaced, Sudan faces the world's largest internal displacement crisis.¹ The conflict has resulted in widespread atrocities, including alleged war crimes and crimes against humanity, with targeting of civilians, as documented by local and international organisations. Despite these efforts, domestic, regional, and international justice mechanisms have largely proven ineffective at deterring crimes or ensuring accountability, too often failing to centre the perspectives and demands of victims. Drawing on interviews with victims, civil society organisations, and experts, this report analyses existing accountability mechanisms and propose actionable recommendations for justice.

The report divides accountability mechanisms into three main categories: domestic, regional, and international. Each section evaluates their effectiveness and limitations in Sudan's current context. Central to this analysis is the perspective of victims, whose access to justice, participation in proceedings, and right to reparation must be at the core of any accountability efforts.

Domestic Accountability Mechanisms

Domestic accountability mechanisms are essential for addressing human rights violations, as they can deliver justice close to affected communities, ensuring greater accessibility, relevance, and a stronger potential for lasting impact. However, ongoing conflict and political instability have hindered Sudan's ability to implement effective legal processes. This report explores the potential for using domestic courts, but emphasises that the failure of the national justice system to address past crimes – particularly in Darfur – raises doubts about its capacity to deliver justice in the present context. The report also considers traditional justice mechanisms, such as community-based reconciliation processes, which, though often considered less suitable for addressing international crimes, are sometimes seen as alternative means of addressing grievances, particularly in conflict-affected regions. Truth commissions and amnesties are also discussed as potential tools in transitional justice and reconciliation processes, with attention to both the opportunities and challenges they present.

Regional Accountability Mechanisms

Regional mechanisms, particularly those under the African Union (AU) and the African Court of Justice and Human Rights (ACJHR), have not received adequate attention in discussions about accountability for crimes committed in Sudan. The AU Peace and Security Council has played a role in mediation efforts, and there is potential for the AU to support transitional justice processes that could promote locally driven accountability. The African Commission on Human and Peoples' Rights (ACHPR) and the still-developing ACJHR offer potential avenues for redress, although both mechanisms face limitations, including political constraints and the lack of enforcement power.

¹ Office of the United Nations High Commissioner for Refugees (UNHCR), [Sudan Regional Refugee Response Plan 2025](#), 4 February 2025. See also UNHCR, Operational Data Portal, [Sudan Situation](#), March 2025.

International Accountability Mechanisms

The most significant international accountability effort to address atrocity crimes in Sudan has been the UN Security Council's (UNSC) 2005 referral of the Darfur situation to the International Criminal Court (ICC). This report assesses the effectiveness of the ICC's efforts and explores the possibility of leveraging other international mechanisms, such as the International Court of Justice (ICJ) and various UN bodies, including the Human Rights Council's Independent International Fact-Finding Mission for the Sudan, in pursuit of accountability.

The Role of Universal Jurisdiction and Magnitsky Sanctions

This report also explores how universal jurisdiction and Magnitsky sanctions, applied by third-party states with enabling legislation, can serve as supplementary accountability tools. These mechanisms allow national courts and states to pursue accountability of perpetrators of international crimes, regardless of where the crime(s) occurred or the nationality of the perpetrator(s) or victims.

Conclusion and Recommendations

Delivering meaningful justice for international crimes in Sudan demands a coordinated, multi-level and holistic approach, recognising the limits and complementarity of existing accountability mechanisms, that centres the perspectives of victims and communities. The ongoing conflict, absence of civilian rule and lack of political will remain the most significant barriers to accountability, underscoring the need for political commitment and legal reform. To break the cycle of impunity, the Sudanese authorities must restore judicial independence, remove immunity provisions and ratify key international treaties. In parallel, traditional justice mechanisms such as *Judiyya*, valued for their accessibility and legitimacy, should be recognised and reformed as complementary pathways to accountability, but adapted to meet contemporary justice standards. Regional actors, particularly the African Union, should play a more assertive role in embedding justice within peace processes, while international mechanisms, including the ICC and UN Fact-Finding Missions, must be reinforced. Justice must be inclusive, victim-centred, and applied at all levels to foster long-term peace and uphold the rule of law.

This report concludes with detailed recommendations, addressed to Sudanese authorities, international states, the African Union, the UN Security Council, the International Criminal Court, and civil society organisations.

Introduction

After years of escalating tensions, on 15 April 2023 armed conflict broke out in Sudan between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF), building on the country's legacy of systematic and structural human rights violations and international crimes. The ongoing violence in Sudan has had severe ripple-effects, further exacerbating an already dire economic situation, and escalating into what is now described as “the world’s biggest hunger crisis”.² As of March 2025, more than 12.8 million people have been displaced by the conflict³ – making it the largest internal displacement crisis globally⁴ – and 3 million refugees have fled to neighbouring countries.⁵ This refugee crisis is now destabilising the wider region, including Chad, South Sudan, Egypt, Uganda, Kenya, Ethiopia, and Eritrea, which are grappling with the dual challenges of a significant influx of refugees and the risk of conflict spreading to their territories.⁶

Several local and international NGOs and institutions have been actively documenting human rights violations throughout the conflict. Many of these violations may amount to international crimes, including war crimes, crimes against humanity and possibly genocide.⁷ A growing body of evidence – comprising testimonies, audio and video material – indicates that these violations are being perpetrated by both sides of the conflict:⁸ the SAF, the RSF, and their allied militias.⁹ Documented crimes include conflict-related sexual violence, arbitrary arrest and detention, torture, enforced disappearances, extrajudicial killings, deliberate attacks on civilians, the targeting of civilian property and infrastructure (including hospitals and humanitarian organisations), and the obstruction of humanitarian assistance.¹⁰ UN Secretary-General António Guterres has described the situation as “unprecedented”, in terms of the “scale and speed” of the country’s “descent into death and destruction”.¹¹

Despite the efforts of various accountability mechanisms at different levels to address the many crimes committed in Sudan, dating back to the conflicts of the early 2000s under the al-Bashir regime, these mechanisms have thus far largely proven ineffective in deterring international crimes or holding perpetrators accountable, as demonstrated by the resurgence of armed conflict in 2023. This persistent failure has left many victims feeling hopeless, with little confidence that justice and accountability are attainable,¹² with some stating bluntly that they “do not believe there is justice in Sudan”.¹³ This report draws on interviews with victims to highlight their perspectives on justice in Sudan. While

2 Kaamil Ahmed, “Children at death’s door as famine declared”, *The Guardian*, 1 August 2024; See also World Food Programme, “Help Families in Sudan”, 2025. According to the World Food Programme, more than half the Sudanese population are facing crisis levels of hunger.

3 UNHCR, Operational Data Portal, Sudan Situation, 2025.

4 International Rescue Committee, *Fighting in Sudan: What you need to know about the crisis*, 18 April 2023.

5 UNHCR, Operational Data Portal, Sudan Situation, 2025.

6 International Rescue Committee, *Fighting in Sudan: What you need to know about the crisis*, 18 April 2023.

7 The following organisations have published detailed reports on the conflict: Amnesty International, *Death Came to Our Home: War Crimes and Civilian Suffering in Sudan*, 3 August 2023; Human Rights Watch, “*The Massalit Will Not Come Home*”: Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan, 9 May 2024; REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023, September 2023*; UN Human Rights Council, *Report of the Independent International Fact-Finding Mission for the Sudan*, UN Doc. A/HRC/57/CRP.6, 23 October 2024; US Department of State, *2023 Country Reports on Human Rights Practices: Sudan*, 2023.

8 UN Human Rights Council, *Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan*, UN Doc. A/HRC/57/CRP.6, 23 October 2024; See also Amnesty International, *Death Came to Our Home: War Crimes and Civilian Suffering in Sudan*, 3 August 2023, pp. 8, 30; Human Rights Watch, “*The Massalit Will Not Come Home*”: Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan, 9 May 2024; REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023, September 2023*.

9 See, for example, *Reuters*, “At least 22 killed in RSF attacks on Sudan’s al-Fashir, says activist group”, 27 July 2024.

10 REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023, September 2023*, pp. 24-5; See also UN Human Rights Council, *Findings of the investigations conducted by the Independent International Fact-Finding Mission for the Sudan*, UN Doc. A/HRC/57/CRP.6, 23 October 2024, pp. 30-5.

11 António Guterres, “Secretary-General’s remarks to the High-Level Pledging Event on Sudan and the Region”, 19 June 2023.

12 Interviews with victims (June-August 2024).

13 Interview with Victim 3.

their views vary, they emphasise the importance of uncovering the truth about what happened and why, holding perpetrators accountable, restoring victims' rights and receiving reparations for the harm suffered.¹⁴ Although most victims support a "holistic approach" to justice,¹⁵ one consistent challenge is a widespread lack of awareness about the range of existing accountability mechanisms. Victims are generally aware of national courts and the International Criminal Court (ICC), but other avenues remain largely unknown to them. This report analyses some of the key existing national, regional, and international accountability mechanisms available to victims of the current conflict, incorporating insights from interviews with victims and civil society organisations (CSOs).

Reflecting the perspective of the majority of victims interviewed, the report proceeds from the understanding that accountability mechanisms should vest, first and foremost, in the domestic Sudanese context. As a signatory to numerous international and regional human rights conventions,¹⁶ Sudan has a responsibility to protect its population and to hold those responsible for international crimes and human rights violations accountable. The report's first section therefore explores the potential for pursuing accountability through domestic courts, despite the challenges posed by the current conflict. In addition, traditional mechanisms, truth commissions and amnesties, while often criticised, are considered as potential tools to address grievances and foster reconciliation.

Regional accountability mechanisms also deserve attention, particularly as they are often overlooked in discussions around justice for Sudan. The African Union (AU), through its Peace and Security Council (PSC), has been involved in mediation efforts, and its support for transitional justice mechanisms could offer a path for locally driven accountability. The African Commission on Human and Peoples' Rights (ACHPR) and the African Court of Justice and Human Rights (ACJHR) also present potential avenues for redress and remedy.

At the international level, the most prominent accountability initiative to date has been the UN Security Council's (UNSC) referral of the situation in Darfur to the ICC for the investigation and prosecution of crimes committed since 1 July 2002.¹⁷ Following the resumption of violence in 2023, the ICC expanded its investigation to encompass the latest iteration of the conflict.¹⁸ During a briefing to the UNSC in July 2023, ICC Prosecutor Karim Khan said his Office would "leave no stone unturned" in ensuring that perpetrators are held accountable.¹⁹ However, the limited progress made by the ICC thus far – compounded by security and access challenges – underscores the need to explore additional avenues for justice. While the ICC's work remains crucial, other international accountability mechanisms should be explored, including the International Court of Justice (ICJ) and various UN mechanisms. In addition, the use of universal jurisdiction and Magnitsky sanctions by states with enabling legislation can play a critical role in complementing international efforts to ensure comprehensive accountability and deter the commission of further human rights violations and international crimes.

Drawing on extensive literature and documentation on transitional justice mechanisms, international criminal courts and tribunals, as well as interviews with victims, CSOs and experts, this report aims to identify viable pathways for accountability for international crimes at all levels – national, regional, and international – in Sudan's current context. By amplifying the voices of victims, the report critically assesses the effectiveness and shortcomings of existing accountability frameworks for international crimes committed in Sudan. Based on these findings, it offers recommendations for a victim-centred approach to addressing these crimes.

¹⁴ Interviews with victims (June-August 2024).

¹⁵ Interview with Expert 3.

¹⁶ Sudan is a signatory to the International Convention on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the 1984 UN Convention against Torture and other cruel, inhuman and degrading treatment. For a full list see [UN Treaty Body Database](#).

¹⁷ UNSC, *Resolution 1593 (2005)*, UN Doc. S/RES/1593, 31 March 2005, para. 1.

¹⁸ UN News, "Darfur: International Criminal Court launches investigation into surging violence", 13 July 2023.

¹⁹ *Idem*.

Methodology

This report focuses on identifying feasible accountability mechanisms, primarily guided by extensive consultations with various stakeholders, including victims, survivors, CSOs, and experts. Based on these discussions, the mechanisms highlighted are those deemed to have the greatest potential for success, while meeting the needs for justice of affected populations and complying with international fair trial standards and human rights norms.

Research for this report draws heavily on secondary sources, including NGO reports, academic articles, media coverage, and legal documents. In addition, primary data was collected through interviews with 17 victims (primarily individual interviews, but also group interviews), and 21 CSOs and experts in the field of justice and accountability for victims in Sudan. These interviews took place between June and September 2024, with some in-person interviews carried out in Eastern Chad from 29 June to 7 July 2024, while others were held remotely. They were conducted by a Sudanese female consultant, fluent in Arabic and English, with extensive experience working with victims of human rights violations and a strong network among Sudanese CSOs.

Interviewees were selected from a range of backgrounds to ensure a broad spectrum of perspectives. Among victims and survivors, efforts were made to speak to individuals from different regions of Sudan and to ensure diversity in terms of age, gender and ethnic background. CSOs included local, regional, and international organisations, ensuring a comprehensive understanding of the challenges and possibilities of the range of accountability mechanisms. Experts consulted included academics, lawyers and human rights defenders, both Sudanese and international, providing critical insights from multiple disciplinary and contextual standpoints.

During the interviews, especially those with victims and survivors, interviewers adhered strictly to the “Do No Harm” principle, ensuring the safety, confidentiality, and well-being of participants throughout the process. All interviewees provided informed consent before their participation, and victims have been anonymised to protect their identities. For consistency, victims have been assigned numerical identifiers (e.g., Victim 1, Victim 2) as referenced in the footnotes to this report. The full interview transcripts and identifying information have been securely stored, with names and corresponding codes kept in separate files to enhance safety and ensure confidentiality. All materials are hosted on a secure platform, with access restricted solely to FIDH, which retains exclusive access to both the anonymised transcripts and the cross-referenced list linking names to assigned codes. It should be noted that while the report highlights key accountability mechanisms, it does not aim to provide an exhaustive inventory of all accountability avenues available for crimes committed in Sudan. Instead, it focuses on mechanisms that emerged from direct consultations and are deemed most feasible and effective in addressing the complex realities of justice and accountability in Sudan’s current context.

The report should be read in conjunction with FIDH’s previous reports on Sudan: **“Delays and Dilemmas: New Violence in Darfur and Uncertain Justice Efforts within Sudan’s Fragile Transition”**,²⁰ based on a fact-finding mission conducted in January and February 2021 by FIDH and its partners in different locations in Sudan, including Darfur and Khartoum; and a second fact-finding report, **“Will There Be Justice for Darfur? Persisting Impunity in the Face of Political Change”**,²¹ based on testimonies from Darfuri refugees gathered during a field investigation in refugee camps in eastern Chad in 2019.

20 FIDH and ACJPS, *Delays and Dilemmas: New Violence in Darfur and Uncertain Justice Efforts within Sudan’s Fragile Transition*, 30 November 2021.

21 FIDH and ACJPS, *Will There Be Justice for Darfur? Persisting Impunity in the Face of Political Change*, December 2019.

BACKGROUND

Root Causes of Sudan's Ongoing Conflict



EGYPT

SAUDI
ARABIA

LIBYA

SUDAN

Khartoum

ERITREA

Darfur
region

ETHIOPIA

**SOUTH
SUDAN**

CENTRAL
AFRICAN
REPUBLIC

Juba

DEMOCRATIC
REPUBLIC
OF THE CONGO

UGANDA

KENYA

Background

Root Causes of Sudan's Ongoing Conflict

The fighting that erupted in Sudan in 2023 cannot be fully understood without considering the political and social dynamics that led to the country's previous civil wars.

Following independence in 1956, Sudan faced a number of challenges, including the difficulty of governing its vast territory, instability in neighbouring states, and, more critically, a deep internal divide – entrenched by colonial administrative practices – between the wealthier, predominantly Arab and Muslim Northern region and the poorer Southern region, where most inhabitants identified as Christian or animist.²² This North-South divide fuelled two devastating civil wars, characterised by famine and mass atrocities: the first from 1955 to 1972 and the second from 1983 to 2005.²³ Ultimately, in July 2011, these divisions led to the secession of Sudan's southern territory and the creation of the Republic of South Sudan.²⁴

During the second civil war, on 30 June 1989, the SAF, led by military officer Omar al-Bashir, seized power in a coup.²⁵ Once in power, al-Bashir consolidated his control by imposing Sharia law nationwide, purging the army's upper ranks, banning CSOs, political parties and independent media, and imprisoning political opponents and journalists.²⁶ In 1993, he appointed himself President of Sudan and abolished the Revolutionary Command Council for National Salvation (RCCNS), but he retained military rule.²⁷

In February 2003, just as negotiations to end the war between North and South were progressing, a new rebellion erupted in Sudan's western province of Darfur. Two rebel groups, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), frustrated by the Sudanese government's neglect of the region and its failure to provide essential services and development to the peripheries, took up arms.²⁸ In response, al-Bashir armed and directed a militia called the Janjaweed, composed primarily of nomadic Arab groups, to suppress the insurgency in Darfur.²⁹ The Janjaweed's brutal campaign led to the killing of hundreds of thousands of civilians and the displacement of millions between 2003 and 2008.³⁰ The Darfur war was characterised by mass atrocities against non-Arab communities, including the Fur, Zaghawa and Masalit populations.³¹ These crimes were condemned as genocide by several states and international organisations,³² prompting the first-ever UNSC referral to the ICC in 2005.³³

In 2013, the previously loosely coordinated Janjaweed were formally organised under the banner of the RSF, merging with al-Bashir's National Intelligence and Security Services. RSF leader

22 Center for Preventive Action, "Civil War in Sudan", Global Conflict Tracker, updated 20 February 2025.

23 Idem.

24 Idem.

25 Idem.

26 Idem.

27 *Al Jazeera*, "Profile: Omar al-Bashir, Sudan's longtime ruler", 11 April 2019.

28 Jérôme Tubiana, "Darfur: Between two wars", *Al Jazeera*, 30 June 2023.

29 Idem. See also *Al Jazeera*, "Who is 'Hemedti', general behind Sudan's feared RSF force?", 16 April 2023. The Janjaweed has been described as a conglomeration of Arab tribal militias mostly drawn from camel-trading tribes and active in Darfur and parts of Chad.

30 Jérôme Tubiana, "Darfur: Between two wars", *Al Jazeera*, 30 June 2023; United States Holocaust Memorial Museum, "Darfur", *Holocaust Encyclopedia*.

31 Esther Pan, "AFRICA: The Darfur Crisis", Council on Foreign Relations, 3 February 2005.

32 Idem.

33 ICC, "Situation in Darfur".

Mohamed Hamdan Dagalo (known as Hemedti), used his commercial acumen³⁴ and military prowess to build and strengthen his militia.³⁵ With al-Bashir's backing, the RSF expanded its influence, becoming involved in gold mining, trading and smuggling as well as supplying mercenaries for conflicts in Yemen and Libya.³⁶

In December 2018, massive protests erupted in Sudan over soaring living costs, quickly evolving into demands for the removal of President al-Bashir after nearly 30 years in power.³⁷ Although government forces responded with violence, mounting public pressure compelled the Sudanese military to remove al-Bashir from office on 11 April 2019. He was replaced by a Transitional Military Council (TMC), led by Lieutenant General Abdel Fattah al-Burhan from the SAF, with Hemedti from the RSF as deputy leader.³⁸ Following the military coup, protests continued and evolved into a mass sit-in in front of the military headquarters in Khartoum. The sit-in was violently suppressed on 3 June 2019, in what became known as the "Khartoum massacre" or "June 3 massacre".³⁹

A transitional government was finally put in place in August 2019, composed of both civilian and military representatives, including Hemedti and General al-Burhan.⁴⁰ In September, the transitional government appointed a national investigation committee to investigate the 3 June events.⁴¹ However, its work was severely obstructed by military authorities and was eventually suspended.⁴²

On 3 October 2020, the transitional government and several rebel groups⁴³ signed the Juba Peace Agreement (JPA),⁴⁴ facilitated by the Republic of South Sudan. Hailed by the international community as a "historic achievement",⁴⁵ this agreement sought to lay the groundwork for democratic transition and economic reforms in Sudan, addressing a number of important issues, including several accountability mechanisms for transitional justice.⁴⁶ However, its inclusivity was limited as two key rebel groups, namely the Darfur-based Sudan Liberation Movement (SLM) faction led by Abdelwahid Mohamed al-Nour and the Sudan People's Liberation Movement-North (SPLM-N) led by Abdelaziz al-Hilu, refused to sign.⁴⁷ Ongoing divisions between the agreement's signatories and the political actors in general caused significant delays in the agreement's implementation,⁴⁸ culminating in a coup in October 2021.⁴⁹

On 25 October 2021, the SAF and RSF staged a coup, dissolving Sudan's transitional government and halting hopes for a peaceful transition to democracy. The coup followed months of rising tensions after demands by several politicians for a full transition to civilian rule by 17 November, in keeping

34 *Al Jazeera*, "Who is 'Hemedti', general behind Sudan's feared RSF force?", 16 April 2023; Hemedti's business interests grew with help from al-Bashir and his family acquired holdings in gold mining, livestock and infrastructure.

35 Alex de Waal, "General Mohamed Hamdan Dagalo 'Hemedti'", World Peace Foundation, 1 July 2019.

36 *Idem*. See also Tom Collins, "Sudan's gold: Hemedti's untold power", *African Business*, 8 July 2019; Alex de Waal, "Sudan crisis: The ruthless mercenaries who run the country for gold", *BBC*, 20 July 2019.

37 *BBC*, "Sudan coup: Why Omar al-Bashir was overthrown", 15 April 2019.

38 *Reuters*, "Sudan opposition and military sign final power-sharing accord", *The Guardian*, 17 August 2019.

39 *Al Jazeera*, "What was the 'Khartoum Massacre' marked by Sudan's activists?", 3 June 2024.

40 *Reuters*, "Sudan opposition and military sign final power-sharing accord", *The Guardian*, 17 August 2019.

41 Human Rights Watch, "Sudan: Justice for June 3 Crackdown Delayed. Ensure Transparent Investigations, Focus on Highest Levels", 2 June 2020.

42 *Dabanga Sudan*, "June 3 Massacre investigation committee forced to suspend its activities", 20 May 2022.

43 Signatories include the Sudan Liberation Movement/Army, Sudan Liberation Movement-Transitional Council (SLM-TC), Justice and Equality Movement (JEM), and the Sudan People's Liberation Movement-North and Sudan Liberation Forces Alliance (SLFA).

44 Juba Agreement for Peace and in Sudan Between the Transitional Government of Sudan and the Parties to Peace Process, 3 October 2020.

45 UN, "Sudan: Darfur deal welcomed by UN chief as 'historic achievement'", 31 August 2020.

46 Juba Agreement for Peace and in Sudan Between the Transitional Government of Sudan and the Parties to Peace Process, 3 October 2020; Dame Rosalind Marsden, "Is the Juba Peace Agreement a Turning Point for Sudan?", Chatham House, updated 9 August 2021.

47 *Al Jazeera*, "Sudan's government, rebel groups sign landmark deal", 3 October 2020.

48 OHCHR, "Renewed violence and delayed implementation of the peace agreement severely threaten peace and stability in South Sudan, UN experts note", 14 August 2020.

49 FIDH and ACJPS, *Delays and Dilemmas: New Violence in Darfur and Uncertain Justice Efforts within Sudan's Fragile Transition*, 30 November 2021, p. 6.

with the original transitional agreement.⁵⁰ Massive protests ensued, but civilian leaders, including the Prime Minister, were detained, leaving al-Burhan and Hemedti at the helm of a government that was turned into a military junta dominated by the SAF and RSF.⁵¹

Tensions between the two factions intensified and, on 15 April 2023, a series of explosions shook Khartoum. The SAF and RSF both accused the other of firing first.⁵² Despite ceasefire attempts,⁵³ the fighting has persisted.

The current conflict has been described as primarily a “power struggle between the SAF and RSF”.⁵⁴ A recent report by REDRESS identified three key factors fuelling tensions: flawed power-sharing deals that kept al-Burhan and Hemedti in power; the absence of security sector reform to integrate the RSF into the SAF; and Hemedti’s ambition to consolidate power and strained relationship with al-Burhan.⁵⁵

Since 2023, the conflict has escalated into a devastating war, claiming thousands of lives and crippling Sudan’s economy and infrastructure.⁵⁶ The UN and other aid agencies reported 20,000 confirmed deaths from the start of the conflict until September 2024,⁵⁷ but this number is likely a significant underestimate due to the chaotic and dangerous conditions making it extremely challenging to determine the true scale of casualties.⁵⁸ A recent report estimated that in Khartoum state alone 61,202 all-cause deaths have occurred since April 2023, of which 26,024 are due to intentional injuries.⁵⁹ These staggering figures far exceed the officially reported killings nationwide during the same period, underscoring the extent of under-reporting and the grim reality of the ongoing crisis, compounded by the displacement of millions and widespread acute hunger.⁶⁰

50 Ivana Kottasová and Eliza Mackintosh, “The military has taken over in Sudan. Here’s what happened”, CNN, updated 26 October 2021.

51 *France24 in Khartoum*, “As it happened: Sudan military dissolves civilian government as anti-coup protests turn deadly”, 25 October 2021; Center for Preventive Action, “Civil War in Sudan”, Global Conflict Tracker, updated 20 February 2025.

52 Center for Preventive Action, “Civil War in Sudan”, Global Conflict Tracker, updated 20 February 2025.

53 Idem. US and Saudi-led negotiations have failed. In December 2023, negotiations in Jeddah adjourned for a second time after neither side agreed to uphold their commitments. See *Reuters*, “Sudanese warring parties dig in as Jeddah talks falter again”, 6 December 2023.

54 Center for Preventive Action, “Civil War in Sudan”, Global Conflict Tracker, updated 20 February 2025.

55 REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, September 2023, p. 14.

56 Kidane Kiros, *The Ongoing War in Sudan and its Implications for the Security and Stability of the Horn of Africa and Beyond*, Policy Brief, Policy Center for the New South, 12 October 2024, p. 3.

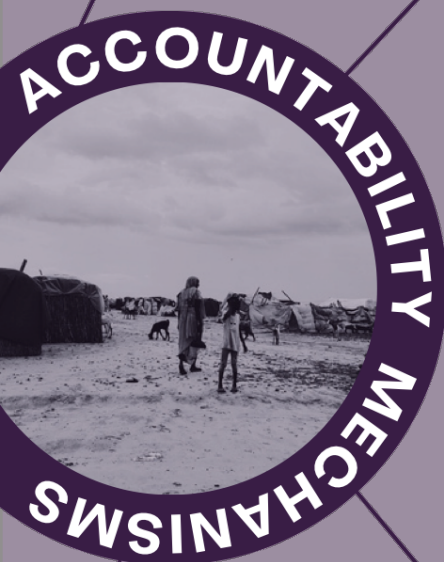
57 Relief International, *Sudan, South Sudan, Chad: Regional Situation Report (July – September 2024)*, 18 October 2024, p. 1.

58 Kalkidan Yibeltal and Basillioh Rukanga, “Sudan death toll far higher than previously reported – study”, BBC, 14 November 2024.

59 Maysoon Dahab et al., “War-Time Mortality in Sudan: A Capture-Recapture Analysis”, *The Lancet*, November 2024, p. 1.

60 Jeffrey Feltman and Jeff Dews, “What can be done about Sudan’s deepening humanitarian catastrophe”, Brookings, 20 June 2024. It has been argued that the hunger crisis is deeply connected to the conflict and is a “man-made crisis”, since the SAF has prevented food assistance from reaching areas under RSF control. Meanwhile, the RSF has been looting warehouses and stealing grain and livestock. See also World Food Programme, “Sudan”, 2024; and Virginia Pietromarchi, “Sudan slips into famine as warring sides starve civilians”, *Al Jazeera*, 29 March 2024.

ACCOUNTABILITY MECHANISMS



Domestic Accountability Mechanisms

- Domestic Criminal Justice System
- Traditional justice mechanisms
- Amnesties and Truth Commissions
- A Special Court for Sudan



Regional Accountability Mechanisms

- African Union
- African Commission on Human and Peoples' Rights
- African Court on Human and Peoples' Rights
- African Court of Justice and Human Rights



International Accountability Mechanisms

- International Criminal Court (ICC)
- International Court of Justice (ICJ)
- UN Mechanisms



Third State Accountability Mechanisms

- Universal Jurisdiction
- Magnitsky sanctions

DOMESTIC ACCOUNTABILITY MECHANISMS



1

Domestic Accountability Mechanisms

1.1 Domestic Criminal Justice System

For many victims of international crimes in Sudan, the domestic justice system is seen as a “total failure”,⁶¹ marred by judicial immunities for political and military actors and a lack of judicial independence. In the words of a survivor, “People are sceptical about Sudanese courts; I think the Sudanese courts failed for a long time to deliver justice.”⁶² The general view is that the current Sudanese domestic justice system is “insufficient and unable to deliver justice”.⁶³ However, despite these challenges, a significant proportion of the victims interviewed still believe that justice should be delivered first and foremost at the national level – driven by a desire to personally witness perpetrators held accountable. One survivor of conflict-related sexual violence stated that “Criminals must be held accountable and punished in front of our eyes”.⁶⁴ Some also expressed the view that, with significant reforms, the domestic system could become a more legitimate and effective mechanism for accountability.

Gaps in Sudan’s legal framework

Sudan’s legislation includes some references to core international crimes. Following the UNSC’s 2005 referral of the Darfur situation to the ICC, the Government of Sudan amended existing legislation and enacted new legislation, to incorporate the international crimes of crimes against humanity, genocide and war crimes, and allow for their prosecution at the domestic level.⁶⁵ In 2007, the Armed Forces Act was enacted, and in 2009, the 1991 Criminal Act was amended.⁶⁶ Although these laws partially incorporate core international crimes into the domestic system, they do not fully comply with international criminal law definitions and standards.

The crime of genocide is addressed under Article 153(1) of the Armed Forces Act and Article 187 of the Criminal Act. However, only the latter explicitly defines genocide,⁶⁷ and its definition deviates significantly from the 1948 Genocide Convention and the ICC Rome Statute,⁶⁸ leading to potential gaps in legal accountability and enforcement. Notably, Article 187 of the Criminal Act requires killing as part of the *actus reus*, making it a requirement for each of the underlying elements of the offence, thereby setting a higher threshold for prosecution than

61 Interview with Victim 1 (Adre, July 2024).

62 Interview with Victim 2 (Adre, July 2024).

63 Interview with Victim 1 (Adre, July 2024).

64 Group interview with 5 CRSV victims (Group 1, Adre, June 2024).

65 REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, September 2023, p. 50; Criminal Act, 1991 (English/Arabic); Eighth Session Criminal Act Amendment, 2009 (English/Arabic) specifically Arts. 186-187, 189-192; Armed Forces Act, 2007 (English/Arabic) specifically Arts. 153-155, 162.

66 REDRESS, *Sudan: Legal Resources*, 2025; Criminal Act, 1991 (English/Arabic); Eighth Session Criminal Act Amendment, 2009 (English/Arabic); Armed Forces Act, 2007 (English/Arabic).

67 Eighth Session Criminal Act Amendment, 2009 (English/Arabic), Art. 187.

68 REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, September 2023, pp. 50-2.

international law. Additionally, the Criminal Act definition incorporates elements of crimes against humanity, such as references to “a large scale or systematic conduct,” which are not part of the internationally recognised definition of genocide.⁶⁹

Article 186 of the Criminal Act defines crimes against humanity. However, it includes a long list of offences that may constitute crimes against humanity, and the definition of rape as a crime against humanity fails to meet international standards. Crimes against humanity are also implicitly addressed in Article 153(2) of the Armed Forces Act, but the list of qualifying acts does not match that set out in Article 186 of the Criminal Act. The Armed Forces Act list is less comprehensive than the Rome Statute list, excluding major crimes like murder, extermination, apartheid and enforced disappearance. Moreover, under Article 153(2), such acts must be committed in the context of “a methodical direct and widespread attack” against civilians, diverging from the Rome Statute’s “widespread or systematic” criteria.⁷⁰

Although not expressly described as “war crimes”, offenses that amount to war crimes under international law are covered extensively in both the Armed Forces Act and the Criminal Act. Articles 154–163 of the Armed Forces Act cover offenses against protected persons, attacks on civilians, displacement of populations, and crimes against prisoners of war, while Articles 188–192 of the Criminal Act include crimes against persons, property, humanitarian operations, and the use of prohibited methods and weapons.⁷¹ However, Sudanese law does not distinguish between international and non-international armed conflicts, an important distinction under international humanitarian law.⁷² Additionally, the Criminal Act sets a higher threshold, requiring war crimes to be committed “knowingly”, which is far stricter than the ICC standard requiring only that the perpetrator “be aware of the factual circumstances that establish the existence of an armed conflict”.⁷³ Moreover, several acts constituting war crimes under the Rome Statute are either absent or inadequately defined in Sudanese law, including inhuman treatment, sexual violence, denial of fair trial, and sexual slavery.⁷⁴

Sudanese law does not explicitly recognise the right to reparation or effective remedies for victims of international crimes and serious human rights violations. Reparation is extremely important to victims. As one victim put it, “Although reparations cannot bring back our loved ones who were killed – for example my brother cannot regain his leg – they are still important. You feel some relief and a sense that your rights were respected.”⁷⁵

In addition to those shortcomings, Sudan’s criminal law does not provide for criminal liability on the basis of command, or superior responsibility a key doctrine in international law which makes it possible to hold commanders or superiors accountable for serious crimes committed by their subordinates, if they knew or should have known about the crimes and failed to prevent or punish them. The absence of provisions on command responsibility significantly limits the ability to hold senior leaders accountable for grave crimes, contrary to international standards.

Finally, Sudanese law, through the 2007 Armed Forces Act, the 2008 Police Forces Act, and the 2010 National Security Act, includes several provisions granting extensive immunity to members of the security forces, including the military, police and General Intelligence Service,

69 Armed Forces Act, 2007 (English/Arabic), Art. 153(1); Eighth Session Criminal Act Amendment, 2009 (English/Arabic), Art. 187; Wayamo Foundation, “Background on the Domestication of International Crimes in Sudan”, 2023.

70 Armed Forces Act, 2007 (English/Arabic), Art. 153(2).

71 Eighth Session Criminal Act Amendment, 2009, Arts. 188–92, (English/Arabic); Armed Forces Act, 2007, Art. 154–63, (English/Arabic); REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, September 2023, p. 51.

72 Wayamo Foundation, “Background on the Domestication of International Crimes in Sudan”, 2023.

73 ICC Rome Statute, Art. 8.

74 Human Rights Watch, “Q&A: Justice for Serious International Crimes Committed in Sudan”, 22 June 2020; REDRESS, *Ruining a Country, Devastating its People: Accountability for serious violations of international human rights and humanitarian law in Sudan since 15 April 2023*, September 2023, pp. 51–2.

75 Interview with Victim 1 (Adre, July 2024).

shielding them from prosecution unless immunity is explicitly waived by senior officials.⁷⁶ These provisions make prosecution of international crimes under domestic law extremely difficult, if not impossible.

There is a clear and urgent need for Sudanese law to be amended to comply with international standards. This includes abolishing provisions on immunities and incorporating provisions on reparation. As one interviewee stated: “The state has a responsibility to conduct comprehensive law and institutional reforms that adhere to the international standards.”⁷⁷

Lack of capacity & institutional weakness

Sudan’s judiciary faces a severe lack of capacity and resources, which hinders its ability to investigate and prosecute international crimes effectively. A 2021 report by REDRESS highlighted systemic issues dating from the al-Bashir era, including chronic understaffing – at the time of the report, three-quarters of positions within the Public Prosecution and courts were unfilled – and a shortage of qualified legal professionals.⁷⁸ Additionally, legal professionals lack experience in addressing serious human rights violations, including in critical areas such as international criminal law, witness protection, and fair trial standards.⁷⁹ These challenges have been exacerbated by the ongoing conflict since April 2023, which has displaced many lawyers, prosecutors, and judges, or forced them to flee the country.⁸⁰

Sudan’s prison system also faces significant challenges, particularly since the outbreak of conflict in April 2023. Multiple prison breaks have occurred, exacerbating instability within the country’s criminal justice system. Notably, the RSF were accused of storming several prisons, including Kober Prison,⁸¹ leading to the release of numerous inmates. In another incident, six inmates escaped from Abyei Prison⁸² due to poor infrastructure and severe weather conditions, highlighting systemic vulnerabilities within the prison system. Addressing these gaps will require comprehensive prison reforms, enhanced security measures, sustained capacity-building efforts and increased resources to rebuild Sudan’s legal system. A survivor highlighted the need “to train Sudanese judges and lawyers on international laws and standards.”⁸³ Training programmes must prioritise equipping legal professionals with the necessary skills to prosecute international crimes and adopt gender-sensitive and victim-centred approaches.

Lack of judicial independence and corruption

The judiciary in Sudan has long suffered from “corruption, nepotism and cronyism” as well as a severe lack of independence,⁸⁴ which has perpetuated a culture of impunity and undermined justice, arousing mistrust among victims.⁸⁵ In the words of a survivor, “I don’t trust Sudanese courts. For me these courts are biased, I know about the corruption of the Sudan judiciary system.”⁸⁶ Under the al-Bashir regime, the judiciary was subject to serious political interference.

76 See Armed Forces Act, 2007, Arts. 34, 42; Police Forces Act, 2008, Chapter X; National Security Act, 2010, Arts. 33, 52.

77 Interview with Expert 3.

78 REDRESS, “*Domestic Accountability Efforts in Sudan, Policy Briefing*”, May 2021, paras. 22-4.

79 Idem.

80 Wayamo Foundation, “*Background on the Domestication of International Crimes in Sudan*”, 2023.

81 *Ahram Online*, “*Rapid Support Forces stormed five prisons, released detainees: Sudan’s Interior Ministry*”, 26 April 2023.

82 *Radio Tamazuj*, “*Six inmates escape Abyei Prison*”, 13 June 2024.

83 Interview with Victim 5.

84 U4 Anti-corruption Resource Centre, “*Query, Sudan: Overview of corruption and anti-corruption*”, 31 March 2017, pp. 6-7; U4 Anti-corruption Resource Centre, “*Query, Sudan: Overview of corruption and anti-corruption*”, 29 June 2021.

85 REDRESS, “*Domestic Accountability Efforts in Sudan, Policy Briefing*”, May 2021, para. 12.

86 Interview with Victim 4.

Despite his ousting in 2019, there have been no meaningful reforms to ensure impartiality.⁸⁷ Although the Constitutional Charter for the Transitional Period, adopted in 2019 as a result of a political agreement between the TMC and the civilian-led Forces for Freedom and Change (FFC) coalition, reaffirms the independence of the judiciary,⁸⁸ the independence of judges and the court system in general remains one of the main concerns for victims and CSOs interviewed.⁸⁹

The 2019 Constitutional Charter for the Transitional Period proposed the establishment of a Constitutional Court and Supreme Judicial Council, but prior to the military coup of October 2021, neither institution had been created. Following the coup, reforms envisaged under the Constitutional Charter were abandoned, and the justice sector reverted back to the situation during al-Bashir's era.⁹⁰ As a result, the military regained full control over the judiciary.⁹¹ The suspension of the Constitutional Court since 2020 has further exacerbated judicial paralysis, leaving thousands of cases on hold.⁹² This lack of independence has also left lawyers involved in legal challenges, vulnerable to state harassment and even enforced disappearances, highlighting the urgent need for judicial reforms that guarantee impartiality, protect the rule of law, and ensure accountability.⁹³ Victims call for the separation of powers and "independent and transparent" national courts.⁹⁴

87 Human Rights Watch, "Q&A: Justice for Serious International Crimes Committed in Sudan", 22 June 2020; Human Rights Watch, "Sudan: Justice for June 3 Crackdown Delayed. Ensure Transparent Investigations, Focus on Highest Levels", 2 June 2020.

88 Constitutional Charter for the Transitional Period, 2019, Art. 30(2).

89 Interview with 5 CRSV victims (Group 1, Adre, June 2024).

90 The Tahrir Institute for Middle East Policy, "Legislating in Sudan: The Transitional Period", 18 October 2021.

91 Gwenaëlle Lenoir, "Sudan: A coup against justice", *Justiceinfo.net*, 28 January 2022.

92 AWAFFY, "Political Application of the Death Penalty in Sudan", AWAFFY Sudanese Organisation, 11 November 2024.

93 Council of Bars and Law Societies of Europe, "Overview CCBE letters in support of endangered lawyers 2023", CCBE, 2023, p. 15; Letter regarding lawyers in Darfur, 21 September 2023; Letter regarding murder of lawyers in Sudan, 26 June 2023.

94 Interview with Victim 1 (Adre, July 2024).

The Al-Bashir Case

The al-Bashir case epitomises the failures of the domestic justice system. Following his arrest on 11 April 2019,⁹⁵ al-Bashir faced trial in a Khartoum court on charges of corruption and money laundering.⁹⁶ The case involved more than USD 113 million in foreign currency seized from his residence, including USD 25 million that al-Bashir admitted receiving from Saudi Crown Prince Mohammed bin Salman.⁹⁷ He was subsequently sentenced to two years in a correctional facility for older prisoners.⁹⁸

Although this verdict was an important step forward, it also drew criticism from several sides. Al-Bashir's lawyers and supporters denounced the trial as "political".⁹⁹ On the other hand, many within Sudan condemned the trial for focusing narrowly on corruption and financial misconduct charges, while ignoring human rights violations.¹⁰⁰ Many Sudanese voiced frustration, fearing that "real justice" would never be delivered to al-Bashir's victims.¹⁰¹ According to analysts, the trial was a "diversion from the unreformed judiciary that is still run by al-Bashir's former allies".¹⁰² Sudan researcher Quscondy Abdulshafi argued that "the old system and transitional government want a [type of] justice that will exonerate some of

their leaders", suggesting that al-Bashir's trial represents a form of "redacted justice".¹⁰³ Since 2020, al-Bashir has also been standing trial for his involvement in the 1989 coup that brought him into power¹⁰⁴ and faces prosecution for incitement of and participation in the killing of protesters during the demonstrations that led to his ousting.¹⁰⁵ However, official updates on those charges have been sparse since December 2022,¹⁰⁶ and proceedings appear to be at a standstill amid Sudan's ongoing political and security crisis.

These proceedings represent the only attempts within Sudan to hold al-Bashir accountable. Despite two arrest warrants issued against him by the ICC in 2009 and 2010,¹⁰⁷ Sudanese authorities have refused to extradite him.¹⁰⁸ Al-Bashir has thus never faced trial – either domestically or at the ICC – for war crimes, genocide, or crimes against humanity committed during the Darfur conflict. Following the outbreak of violence in 2023 and the subsequent breakdown of Sudan's state institutions and prison systems, the status of al-Bashir and several of his aides indicted by the ICC has become increasingly unclear. While Sudanese authorities have stated that al-

95 Linah Alsaafin, "Omar al-Bashir on trial: Will justice be delivered?", *Al Jazeera*, 24 August 2019.

96 Abdi Latif Dahir, "Sudan's Ousted Leader is Sentenced to Two Years for Corruption", *The New York Times*, 13 December 2019.

97 BBC, "Omar al-Bashir: Sudan ex-leader sentenced for corruption", 14 December 2019. See also Zdravko Ljubas "Sudanese ex-Dictator Sentenced to 2 Years for Graft", OCCRP, 17 December 2019; Khalid Abdelaziz, "Sudan's Bashir charged with corruption, in 1st appearance since April", *Reuters*, 17 June 2019.

98 *Al Jazeera*, "Sudan's Omar al-Bashir sentenced to two years for corruption", 14 December 2019.

99 BBC, "Omar al-Bashir: Sudan ex-leader sentenced for corruption", 14 December 2019.

100 Abdi Latif Dahir, "Sudan's Ousted Leader is Sentenced to Two Years for Corruption", *The New York Times*, 13 December 2019.

101 Idem.

102 Linah Alsaafin, "Omar Al Bashir on trial", *Al Jazeera*, 24 August 2019.

103 Idem. Abdulshafi compared this justice to the kind of justice Hosni Mubarak and his sons faced after the 2011 uprising in Egypt which also fell short of "real" justice.

104 Human Rights Watch, "Sudan: A Year On, Justice Needed for Crackdowns. Investigate, Prosecute Crimes Against Protesters Since December 2018", 10 April 2020.

105 *Al Jazeera*, "Sudan's Omar al-Bashir charged over killing of protesters", 13 May 2019; *Reuters*, "Sudan's Bashir admits role in 1989 coup during trial", *Al Arabiya News*, 20 December 2022.

106 *Reuters*, "Sudan's Bashir admits role in 1989 coup during trial", 21 December 2022.

107 *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Warrant of Arrest for Omar Hassan Ahmad Al Bashir, 4 March 2009, ICC-02/05-01/09-1; *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Second Decision on the Prosecution's Application for a Warrant of Arrest, 12 July 2010, ICC-02/05-01/09-94.

108 *Reuters*, "Military Council says it will not extradite Bashir, may try him in Sudan", 12 April 2019.

Bashir was transferred to a hospital for medical treatment,¹⁰⁹ the broader collapse of official oversight has raised concerns about his continued detention and the prospects for accountability.

Many obstacles currently prevent the fair and impartial prosecution of core international crimes in Sudan, including significant legal and procedural shortcomings, a lack of capacity and institutional weakness, and most critically, widespread corruption and a complete lack of independence of the judiciary.

To address those challenges, Sudan must undertake comprehensive reforms of its legal system. This includes aligning national laws with international norms and standards, particularly in relation to the prosecution of international crimes, eliminating immunity provisions, and incorporating provisions for victim reparations and command responsibility. Furthermore, the capacity of judges, prosecutors and legal professionals to prosecute international crimes must be strengthened through specific training on international criminal law and human rights.

Finally, measures must be taken to ensure judicial independence in order to restore the population's trust in the judiciary. In the words of a survivor, "We need to work on the reform of the judiciary system and legislation reform to ensure the credibility, effectiveness and independence of the national courts."¹¹⁰

Victims and CSOs stressed the urgent need for comprehensive institutional and legal reforms to address these challenges, emphasising that Sudanese society must come together to develop and implement its own justice system "ensuring the participation of the affected communities in designing the mechanisms".¹¹¹ However, such reforms cannot take place without political will, and it is currently lacking. Many remain hopeful that change can be initiated by a new transitional government once the conflict ends.

¹⁰⁹ *Associated Press*, "Sudan's jailed former strongman Omar al-Bashir is taken to a hospital in the north for better care", 24 September 2024.

¹¹⁰ Interview with Victim 5.

¹¹¹ Interview with Victim 2 (Adre, July 2024).

1.2 Traditional Justice System

Traditional justice mechanisms have been used in several countries to address the aftermath of violent conflicts. Notable examples in Africa include the *Gacaca* in Rwanda, the *Bashingantahe* in Burundi, the *Mato Oput* in Uganda, and the *Kpaa Mende* in Sierra Leone.¹¹²

In Sudan, traditional mechanisms are called *Judiyya* and are especially used in the Darfur region.¹¹³ *Judiyya* is “a type of open meeting for conflict settlement”,¹¹⁴ “based on third party mediation with the mediator known as *Ajaweed*.”¹¹⁵

The *Ajaweed* are respected leaders who have attained high social status due to their wisdom, experience, knowledge of traditional customs and laws, as well as for their understanding of the environment and history of tribal areas.¹¹⁶ They may include imams, village chiefs, or other esteemed figures within the community.¹¹⁷ Their primary role is to mediate between conflicting parties and guide them towards a mutually acceptable resolution, in order to restore social harmony in the community. Sudanese society accords a high status to the decisions taken, so they are rarely contested.¹¹⁸

These traditional courts are characterised by their flexibility and accessibility, convening at any time and place deemed suitable for the case at hand. Unlike formal courts, they do not adhere to strict schedules or formal procedures.¹¹⁹ Although historically they did not involve formal paperwork or records, *Judiyya* proceedings are now often documented and the final agreements are usually presented in writing and signed by both parties, as well as by the mediators.¹²⁰

The *Judiyya* system adopts a restorative justice approach with a strong emphasis on restitution and compensation to restore the relationship between the two parties and ensure integration into the community. Reaching a consensus-based resolution to the conflict relies on identifying and defining harm and damages but also determining fines or compensation for the victim or their family. *Diya*, or “blood money”, is a form of compensation intended to prevent retaliation or revenge. Traditionally paid in livestock, it is now typically given in monetary form.¹²¹

Although *Judiyya* is often associated with resolving land and resource-related disputes, it is not limited to this type of conflict and can be used to address all types of communal issues.¹²²

112 Luc Huyse and Mark Salter, *Traditional Justice and Reconciliation after Violent conflict: Learning from African Experiences*, 6 February 2008, International IDEA, p. 20.

113 Yasir Elsanousi, “Traditional Judiyya Leaders in Sudan as Actors of Humanitarian Diplomacy: Are they Eligible to Fulfill These Roles in the Darfur Humanitarian Crisis”, *Journal of African Studies and Development*, 2017, Vol. 3(2), p. 16.

114 Z.M. Bashar Gado, *Conflict Resolution and Reconciliation in Sudan: Inter-Tribal Reconciliation Conferences in South Darfur State up to 2009*, May 2014, University of Bradford, p. 216.

115 Yasir Elsanousi, “Traditional Judiyya Leaders in Sudan as Actors of Humanitarian Diplomacy: Are they Eligible to Fulfill These Roles in the Darfur Humanitarian Crisis”, *Journal of African Studies and Development*, 2017, Vol. 3(2), p. 16.

116 Yasir Elsanousi, “Traditional Judiyya Leaders in Sudan as Actors of Humanitarian Diplomacy: Are they Eligible to Fulfill These Roles in the Darfur Humanitarian Crisis”, *Journal of African Studies and Development*, 2017, Vol. 3(2), p. 16.

117 Idem.

118 Kafaya Ahmed Adam, “‘Al-Joudiyya’ A Sudanese Craft for Coexistence and Peace”, *Aladwaa*, 22 December 2023 (translated from Arabic).

119 Z.M. Bashar Gado, *Conflict Resolution and Reconciliation in Sudan: Inter-Tribal Reconciliation Conferences in South Darfur State up to 2009*, May 2014, University of Bradford, pp. 217, 229.

120 Abdul S. Wahab, *The Sudanese Indigenous Model for Conflict Resolution: A case study to examine the relevancy and the applicability of the Judiyya model in restoring peace within the ethnic tribal communities of the Sudan*, January 2018, Doctoral dissertation, Nova Southeastern University, p. 28.

121 Ibid., pp. 8-9.

122 Ibid., pp. 26-7.

Judiyya courts usually deal with minor disputes but they are also used to address more serious crimes, such as murder and tribal conflicts.¹²³ Furthermore, *Judiyya* has been used increasingly since the start of the conflict in 2023 to replace national courts that have collapsed.¹²⁴ The *Judiyya* courts have now become the primary recourse for people in Darfur to deal with all types of issues that used to be addressed by national courts.¹²⁵

Judiyya presents several advantages as a potential accountability mechanism for Sudan. First, it has strong legitimacy within the population as a centuries-old, locally rooted justice process. A 2017 study assessing the relevance and applicability of the *Judiyya* model in restoring peace in Sudan found that participants expressed trust in this system, in sharp contrast to their mistrust of the national judicial system. Participants notably emphasised the cost-effectiveness, speed, inclusivity, and ability of *Judiyya* to engage communities democratically.¹²⁶ This perception seems to hold today. Participants in a meeting on accountability mechanisms in Adre refugee camps in 2024 recommended developing traditional mechanisms.¹²⁷ One CSO interviewed for this report expressed the view that grassroot-driven mechanisms have a better chance of success than top-down approaches: “Utilising the existing systems in place, for example tribal systems, is more likely we will get some form of accountability.”¹²⁸ *Ajaweed* are highly respected community leaders; they appeal to shared religious values and common identity in order to resolve disputes.¹²⁹ Moreover, traditional justice mechanisms were formally recognised by the JPA, which granted them power to prosecute crimes linked to the conflict that do not fall under the jurisdiction of other mechanisms.¹³⁰ The flexibility and informal nature of the *Judiyya* sessions make them relatively easy to set up. *Judiyya* could not only help establish accountability and reconciliation but also contribute to truth-seeking, community cohesion, and long-term social healing.¹³¹

Although *Judiyya* has proven effective for local and communal disputes, it has never been used for international crimes. The informal and culturally specific nature of *Judiyya* makes it less suitable for the rigorous standards of international law while issues of impartiality and enforcement of sanctions become more complex on a larger scale. Some CSOs therefore question the ability of *Judiyya* to deal with international crimes, in particular sexual and gender-based violence.¹³² A major concern is the lack of women among *Judiyya* mediators. Evidence shows that the exclusion of women in peace and conflict resolution processes contributes to instability while their inclusion helps achieve longer lasting peace.¹³³ In addition, while acknowledging the importance of involving local leaders, interviewees raised concerns about their neutrality, as some have reportedly been “bought out” during the ongoing conflict, undermining their credibility with local populations.¹³⁴ A “process of reconfirming legitimacy for local leaders” would thus be essential before *Judiyya* could be considered viable.¹³⁵

123 Broadcast news, “*Al-Joudiya in Sudan: Scenes and Situations*”, 26 February 2023 (translated from Arabic).

124 *3ayin Network*, “How did the people’s courts in Darfur replace the judicial authority?”, 5 February 2024 (translated from Arabic).

125 Idem.

126 Abdul S. Wahab, *The Sudanese Indigenous Model for Conflict Resolution: A case study to examine the relevancy and the applicability of the Judiyya model in restoring peace within the ethnic tribal communities of the Sudan*, January 2018, Doctoral dissertation, Nova Southeastern University, pp. 139-41.

127 Interview with Expert 3.

128 Interview with Expert 8 (July 2024).

129 Abdul S. Wahab, *The Sudanese Indigenous Model for Conflict Resolution: A case study to examine the relevancy and the applicability of the Judiyya model in restoring peace within the ethnic tribal communities of the Sudan*, January 2018, Doctoral dissertation, Nova Southeastern University, pp. 26, 139-41.

130 Juba Agreement for Peace and in Sudan Between the Transitional Government of Sudan and the Parties to Peace Process, 3 October 2020; Gwenaëlle Lenoir, “Sudan: After Peace, Transitional Justice?”, *JusticeInfo.net*, 2 October 2020.

131 Annelies Verdoolaege, “Review: Traditional Justice and Reconciliation after Violent Conflict”, *Afrika Focus*, Vol. 21, No. 2, 2008, p. 3.

132 Interview with Expert 1 (July 2024).

133 UN Peacekeeping, “Women’s participation in peace processes is not only a right, it’s the way to lasting peace”, 7 March 2024.

134 Interview with Jehanne Henry, independent human rights lawyer and Sudan specialist.

135 Idem.

Judiyya could follow the example of other traditional justice mechanisms that have been used to address international crimes. The *Gacaca* courts, developed and used to prosecute perpetrators of the Tutsi genocide in Rwanda, are probably the best-known of these mechanisms.¹³⁶ Established to speed up the trial of genocide cases, they complemented the work of the International Criminal Tribunal for Rwanda and national courts. Despite their limitations – including the lack of compensation and the inaccessibility of archives, the *Gacaca* courts have been described as a “success story”, having tried nearly two million cases in ten years and providing Rwandans with a forum to discuss genocide issues.¹³⁷ Analysts have highlighted their potential to foster reconciliation and restore Rwanda’s social fabric, while also pointing to their shortcomings, particularly in terms of fair trial standards and government interference.¹³⁸ One of the *Gacaca*’s main strengths is its rapid establishment and efficiency, as demonstrated by the appointment of 266,000 *Gacaca* judges in its first year, and the high number of cases tried during its period of operation (over 1.5 million cases).¹³⁹

Judiyya can draw on the experience of the *Gacaca* courts to become a more structured mechanism for justice and reconciliation in Sudan. To be effective, it must adapt and address the challenges encountered in the *Gacaca* system: key reforms include training *Judiyya* mediators on international crimes, fair trial standards and human rights. Additionally, its traditionally male-dominated structure must change to ensure women play a greater role.¹⁴⁰ As Abdullahi Osman El-Tom notes, “The new *Judiyya* will undoubtedly be a hybrid, defying purists of traditional customs and disappointing those who aspire to an unadulterated modern judicial system.”¹⁴¹

While *Judiyya* alone cannot address the full scope of crimes committed in Sudan, it could play a complementary role alongside other mechanisms for delivering truth and reparations, much like the *Gacaca* courts. However, significant changes are needed to ensure its credibility, inclusivity, and effectiveness as a viable avenue to justice.

136 *Broadcast News*, “Al-Joudiya in Sudan: Scenes and Situations”, 26 February 2023 (translated from Arabic). See also Human Rights Watch, “Justice Compromised: The Legacy of Rwanda’s Community-Based *Gacaca* Courts”, 2007 for more details on the disadvantages and shortcomings of *Gacaca* courts; and Phil Clark, *The Gacaca Courts, Post Genocide Justice and Reconciliation in Rwanda*, Cambridge University Press, December 2010, for an overall positive assessment of the *Gacaca* process based on seven years of ethnographic research.

137 Thierry Cruvellier and Emmanuel Sehene Ruvugiro, “You cannot transplant the *Gacaca* Court System”, *JusticeInfo.net*, 9 July 2024.

138 Amnesty International, *Rwanda: Gacaca: A question of justice*, 17 December 2022, p. 43; Timothy Longman, “An Assessment of Rwanda’s *Gacaca* Courts”, *Peace Review*, Vol. 21(3), p. 311.

139 Abdullahi El-Tom, “From war to peace and reconciliation in Darfur, Sudan: Prospects for the *Judiyya*”, *African Dialogue Monography Series*, 2012, Vol. 2(2), p. 105.

140 *Ibid.*, pp. 111-4.

141 *Ibid.*, p. 111.

1.3 Amnesties and Truth Commissions

1.3.1 Amnesties

The 2020 JPA includes a provision granting a “general amnesty for the indictments and standing warrants issued against political leaders and members of the armed movements because of their membership therein.”¹⁴² Shortly after the agreement was signed, al-Burhan, in his capacity as President of the Transitional Sovereignty Council (TSC), announced a general amnesty for all those who carried weapons or participated in military operations in Sudan.¹⁴³ However, the general amnesty does not apply to those against whom arrest warrants have been issued by the ICC or those who otherwise face criminal charges and proceedings for the crime of genocide, war crimes or crimes against humanity.

Amnesties are commonly adopted to facilitate political transitions and have been proposed in post-conflict settings as a means to encourage parties to the conflict to participate in transitional justice processes,¹⁴⁴ including to encourage combatants to disarm, demobilise, and reintegrate.¹⁴⁵ Amnesties have been proposed in situations similar to that of Sudan, such as in the Central African Republic where it was argued that, “Granting amnesty to some key leaders and other military commanders of these groups constitutes an important incentive to be used in order to convince them to lay down their weapons.”¹⁴⁶

While amnesties can be part of peace settlements, those that entirely shield perpetrators from accountability for serious human rights and humanitarian law violations breach states’ legal obligations. Blanket amnesties – those granting immunity to broad categories of offenders without conditions – are widely recognised as prohibited under international law.¹⁴⁷ Over the past two decades, it has become increasingly accepted that amnesties are incompatible with international law when applied to genocide, war crimes, and crimes against humanity.¹⁴⁸ This is because they violate states’ duties to investigate, prosecute, and punish those responsible for such crimes, as established by instruments like the Rome Statute, the Geneva Conventions, and the International Convention for the Protection of All Persons from Enforced Disappearances.¹⁴⁹

142 Juba Agreement for Peace and in Sudan Between the Transitional Government of Sudan and the Parties to Peace Process, 3 October 2020, Art. 34; Gwenaëlle Lenoir, “Sudan: After Peace, Transitional Justice?”, *JusticeInfo.net*, 2 October 2020; REDRESS, “A General Amnesty in Sudan: International Law Analysis”, January 2021. The Juba Peace Agreement was however not clear on certain provisions such as whether government members could benefit from the amnesty provisions.

143 *The New Arab*, “Burhan issues a general amnesty for all arms carriers in Sudan”, 13 November 2020; REDRESS, *A General Amnesty in Sudan: International Law Analysis*, January 2021.

144 REDRESS, *A General Amnesty in Sudan: International Law Analysis*, January 2021, p. 3.

145 UNSC, *The rule of law and transitional justice in conflict and post-conflict societies*, UN Doc. S/2004/616, 23 August 2004, para. 32.

146 Sadiki Koko, “Implementing transitional justice in post-transition Central African Republic: What viable options?”, *African Human Rights Law Journal*, 2021, Vol. 21, No. 2, p. 974.

147 See UN, *United Nations Set of Principles to Combat Impunity*, 2005, Principles 19, 24; *Special Court for Sierra Leone, Prosecutor v. Gbao et. al, Decision on Preliminary Motion on the Invalidity of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court*, 25 May 2004, para. 9. (“There is a crystallising international norm that a government cannot grant amnesty for serious crimes under international law”); European Court of Human Rights, *Marguš v. Croatia, Judgment*, 27 May 2014, para. 139: “A growing tendency in international law is to see such amnesties as unacceptable because they are incompatible with the unanimously recognised obligation of States to prosecute and punish grave breaches of fundamental human rights”; REDRESS, “A General Amnesty in Sudan: International Law Analysis”, January 2021, p. 2; Geneva Call, “Amnesties and Armed Conflicts”, 22 December 2020, p. 3.

148 OHCHR, *Rule-of-law tools for post-conflict States: Amnesties*, January 2009, p. 11.

149 Idem.

Additionally, granting amnesties for international crimes and gross human rights violations would infringe on victims' rights to an effective remedy, to be heard, and to receive reparations. Some argue that, even in the absence of a treaty explicitly prohibiting amnesties under international law, a customary international legal norm has emerged against granting them for these serious crimes.¹⁵⁰

Furthermore, amnesties do not seem to enjoy support from the population. A 2020 study by Sayara International found that "there is very little public support for the use of amnesty as a component of transitional justice" in Sudan.¹⁵¹ This sentiment remains prevalent today. The majority of victims interviewed for this report expressed the view that "all perpetrators" should be held accountable.¹⁵²

In the words of one of them, "I cannot forgive the perpetrators; I need to know the truth but [there should be] no amnesty, the perpetrators must be held accountable."¹⁵³

Some CSOs interviewed for this report expressed support for conditional amnesty within transitional justice process, while firmly excluding its application to international crimes and gross human rights violations.¹⁵⁴ Conditional amnesties could serve as "an incentive for leaders to agree [...] to participate in a truth process," potentially through "lighter sentences" or "some kind of incentive to participate."¹⁵⁵ This would involve requiring perpetrators to plead guilty, disclose the full truth and perform a public apology.¹⁵⁶

Several CSOs also advocated the establishment of a truth commission – or multiple truth commissions addressing different categories of violations or distinct timelines – to facilitate this process.¹⁵⁷

150 *Supra* note 147. See also International Commission of Jurists, *International Law and the Fight Against Impunity, A Practitioners Guide*, p. 269.

151 Sayara International, USAID, *"National Perception Study of Transitional Justice in Sudan"*, September 2020, p. 17.

152 Interview with Victim 3; Interview with Victim 2 (Adre, July 2024).

153 Interview with Victim 3.

154 Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024); Interview with Samier Makeen, human rights lawyer (July 2024); Interview with Jehanne Henry, independent human rights lawyer and Sudan specialist.

155 Interview with Jehanne Henry, independent human rights lawyer and Sudan specialist.

156 Interview with Mohamed Hassan, Director of the Darfur Network for Human Rights (July 2024).

157 Interview with Samier Makeen, human rights lawyer (July 2024); Interview with Abdel Salam Sidahmed, Chairperson of the Sudanese Human Rights Monitor (July 2024); Interview with Mohamed Hassan, Director of the Darfur Network for Human Rights (July 2024).

1.3.2 Truth Commissions

The JPA¹⁵⁸ provided for the establishment of a truth commission, but it never saw the light of day.

Victims interviewed for this report highlighted the importance of establishing the truth. An 18-year-old former child soldier and survivor of atrocities recounted being detained with approximately 500 others, who died without their families being informed. To this day, their families still do not know what happened to them. He stressed the need to convey the truth to them, describing how his own family suffered tremendously because they had been unaware of his whereabouts.¹⁵⁹

The importance of truth-telling was echoed by participants in an accountability meeting held in Adre camp as part of the research for this report. They called for a truth commission to be established to help understand why these atrocities happened and the motives of perpetrators.¹⁶⁰

Truth commissions have proven successful in a number of countries, such as South Africa, and several Latin American countries where they contributed not only to truth-telling and victims' recognition but also informed criminal cases and promoted meaningful reparations.¹⁶¹ The South African post-apartheid Truth and Reconciliation Commission (TRC-South Africa) stands out as one of the most widely known. Its innovative approach broke with the general trend of blanket amnesties by requiring perpetrators to publicly disclose the crimes they committed under apartheid in exchange for amnesty.¹⁶² Although this compromise was controversial – its effectiveness in ensuring a genuinely just and accountable transition remains debated¹⁶³ – it did play a role in the peaceful shift in South Africa, often described as a “miracle” given the country's history.¹⁶⁴

Establishing a truth commission could be part of a package of reconciliation- and accountability-promoting mechanisms for Sudan and considered complementary to other accountability mechanisms. While amnesties may lack public support, they could serve as a necessary incentive for leaders to engage in a transitional justice process. However, any amnesty must be strictly limited, excluding international crimes and gross human rights violations, and should be conditional, requiring full disclosure of the truth in the framework of a truth commission. Further consultations with victims are essential to ensure their perspectives are fully considered in shaping these measures.

158 Juba Agreement for Peace and in Sudan Between the Transitional Government of Sudan and the Parties to Peace Process, 3 October 2020, Art. 22.

159 Interview with Victim 3.

160 Interview with Expert 3.

161 Eduardo Gonzalez & Howard Varney, *Truth Seeking: Elements of Creating an Effective Truth Commission*, ICTJ, March 2013 (“Chapter 2: What are Truth Commissions?”), p. 10.

162 Therese Abrahamsen & Hugo van der Merwe, *Reconciliation through Amnesty? Amnesty Applicants' Views of the South African Truth and Reconciliation Commission*, Centre for the Study of Violence and Reconciliation, 2005, p. 1.

163 John Dugard, “*Dealing with the crimes of a past regime: Is amnesty still an option?*”, *Leiden Journal of International Law*, No. 12, 1999, pp. 1001-15.

164 See, for example, Dominique Darbon, “*La Truth and Reconciliation Commission. Le miracle sud-africain en question*”, *Revue française de science politique*, No. 6, 1998, pp. 707-24.

1.4 A Special Court for Sudan

In June 2005, a Special Court was created to specifically investigate and prosecute the crimes committed in Darfur: the Special Criminal Court on the Events in Darfur (SCCED).¹⁶⁵

The SCCED was established by the Sudanese authorities with jurisdiction over crimes under Sudanese law, violations identified by a commission of inquiry, and any charges pursuant to any other laws designated by the Chief Justice and international humanitarian law.¹⁶⁶ However, it failed to deliver accountability for crimes in Darfur. The Court's creation was widely seen as a strategy for Sudanese authorities to demonstrate its "willingness" and "ability" to investigate and prosecute international crimes domestically, and thereby to the ICC's complementary jurisdiction under Article 17 of the Rome Statute and justify non-cooperation, rather than a genuine effort towards accountability.¹⁶⁷ According to a 2006 Human Rights Watch report, only a few cases ended up being brought before the SCCED in its first year, and most of them involved ordinary criminal matters rather than international crimes.¹⁶⁸ The report highlighted a number of issues explaining the failure of the SCCED and concluded that, "There is no genuine willingness on the part of Sudanese authorities to ensure that the perpetrators of the atrocities in Darfur are brought before the SCCED for prosecution. Nor is there evidence that the SCCED has the capacity to try these cases effectively even if appropriate cases are brought before it."¹⁶⁹ One of the last notable cases before the SCCED took place in May 2013, when three men were sentenced to death for the murder of a community leader in East Darfur, once again unrelated to the Darfur conflict.¹⁷⁰ The SCCED lost relevance after the fall of al-Bashir.

The 2020 JPA included a commitment to establish a new Special Court for Darfur Crimes to prosecute genocide, crimes against humanity, war crimes and gross violations of international human rights and humanitarian law committed in Darfur since 2002.¹⁷¹ However, despite the Agreement's requirement that the Special Court be created within 90 days of its signing, no steps were taken in that direction. While the Court was never established, the idea of a Special Court for Darfur – or Sudan as a whole – remains a potentially effective option for prosecuting such crimes.

The creation of such a court (or courts) appeared to enjoy support from victims and experts interviewed.¹⁷² The court could take several forms: it could be established at the domestic or international level or as a hybrid tribunal, with "a mix of international and national judges."¹⁷³ The idea of creating a hybrid court, composed of Sudanese and non-Sudanese judges to prosecute international crimes is not new; it was endorsed by the African Union in 2009 for the Darfur

165 UNSC, *Letter dated 18 June 2005 from the Charge d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council*, UN Doc. S/2005/403, 22 June 2005, p. 1.

166 Decree Establishing the Special Criminal Court on the Events in Darfur, 7 June 2005, Art. 5, reprinted in S/2005/403, pp. 4-7.

167 Human Rights Watch, *Lack of Conviction. The Special Criminal Court on the Events in Darfur*, Briefing Paper, June 2006, p. 8.

168 Ibid., pp. 2, 8.

169 Ibid., p. 1.

170 Osman Hummida, "Special Criminal Court in Darfur sentences three men to death penalty followed by crucifixion", African Centre for Justice and Peace Studies, 24 May 2013.

171 Juba Agreement for Peace and in Sudan Between the Transitional Government of Sudan and the Parties to Peace Process, 3 October 2020, Art. 25.

172 Group interview with 5 CRSV victims (Group 1, Adre, June 2024); Interview with Expert 3; Interview with Victim 5; Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024); Interview with Expert 9 (August 2024); Interview with international criminal lawyer, Wayamo Foundation (July 2024); Interview with Mohamed Hassan, Director of the Darfur Network for Human Rights (July 2024); Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024); Interview with Expert 1 (July 2024). The creation of such a court was also mentioned by Abdel Salam Sidahmed, Sudanese Human Rights Monitor, during an FIDH side event on Sudan at the 23rd Assembly of States Parties to the Rome Statute of the ICC, in The Hague, December 2024.

173 Interview with Expert 3.

situation, following the recommendations of the African Union High-Level Panel on Darfur (AUPD).¹⁷⁴

As only a limited number of suspects identified as those most responsible for international crimes can be prosecuted at the ICC, the UN Sudan FFM has also recommended the establishment of a separate international judicial mechanism with a dedicated mandate focused on Sudan that could work in tandem and in cooperation with the ICC.¹⁷⁵ According to the UN Sudan FFM, such a mechanism could hold perpetrators at all levels accountable across Sudan.

A special court for Sudan would present several advantages, including bringing justice closer to the affected communities, while having the potential to be more independent and impartial than existing domestic mechanisms currently and bringing specific expertise to cases involving crimes under international law.

A hybrid model could be especially beneficial, as it could be “supported by international or regional expertise,”¹⁷⁶ helping to “build the capacity of the national judges and lawyers” and to “restore the trust in the domestic judicial system” making it “an effective means of building an independent justice system in Sudan.”¹⁷⁷ At the same time, hybrid courts tend to be more adaptable to the specificities of local contexts. In the words of one of CSO representative interviewed “You can tailor any of these sorts of hybrid mechanisms to the specific context in which you’re working.”¹⁷⁸

Such a court should be regulated by laws other than existing Sudanese law, that integrate international crimes and comply with international standards.¹⁷⁹ It could be established “either through [a] UN Security Council resolution similar to the case of Sierra Leone, or through African Union endorsement as [in] the case of South Sudan.”¹⁸⁰ Moreover, such a court would not need to be limited to Darfur and could be created to address crimes committed on the entire territory of Sudan, since the conflict has spread across the country. It could follow examples of well-known models such as the Extraordinary Chambers in the Courts of Cambodia (ECCC),¹⁸¹ the Special Criminal Court for the Central African Republic¹⁸² and the Gambia’s Hybrid Tribunal.¹⁸³

However, the creation of a special court would not be without difficulties. Establishing a hybrid tribunal requires substantial financial resources to cover the operational costs of managing a court of this scale. Past examples¹⁸⁴ have also demonstrated that “funding needs [in such tribunals] are almost always higher than initially anticipated,” in particular in post-conflict settings.¹⁸⁵ Moreover, the creation of such a court is contingent on political will, making its

174 Human Rights Watch, “The Mbeki Panel Report One Year On”, 29 October 2010.

175 UN Fact-Finding Mission on Sudan, *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*, UN Doc. A/HRC/57/CRP.6, 23 October 2024, p. 2.

176 Interview with Expert 1 (July 2024).

177 Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

178 Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024).

179 Interview with Mohamed Hassan, Director of the Darfur Network for Human Rights (July 2024); Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

180 Interview with Expert 9 (August 2024).

181 Proposed as a model to follow by Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

182 Robert Koshu Ndiyun, “The Special Criminal Court and the challenge of criminal accountability in the Central African Republic”, *SN Social Sciences*, 24 August 2023.

183 James Joseph, “The Gambia’s Hybrid Tribunal: A Bold Experiment in Transitional Justice”, *Juristnews*, 6 January 2025.

184 For a detailed analysis of the Special Criminal Court in the Central African Republic, see FIDH, *What prospects for justice in the Central African Republic? Complementarity between national and international mechanisms: status and challenges*, October 2022, pp. 16-24.

185 International Center for Transitional Justice, *Committing to Justice for Serious Human Rights Violations: Lessons from Hybrid Tribunals*, 12 May 2018, pp. 93-5.

establishment highly uncertain. It is also dependent on the outcome of the conflict: if one side emerges victorious, it is unlikely to submit itself to criminal jurisdiction; if the parties reach a truce, then “both sides would have no interest at all in accountability”.¹⁸⁶ Another major challenge is the “deliberate stripping by bad actors of Sudan’s institutional capacity to run accountability processes by stripping independence away from the courts [and] by a lack of legal training for prosecutors.”¹⁸⁷ So while a hybrid model could help address these gaps, a long-term strategy would also be needed to ensure that any progress made contributes to sustainable change in the country.¹⁸⁸ Without a plan to integrate the court’s work into Sudan’s broader legal system, its impact may be temporary, especially if funding runs out or its mandate expires.¹⁸⁹

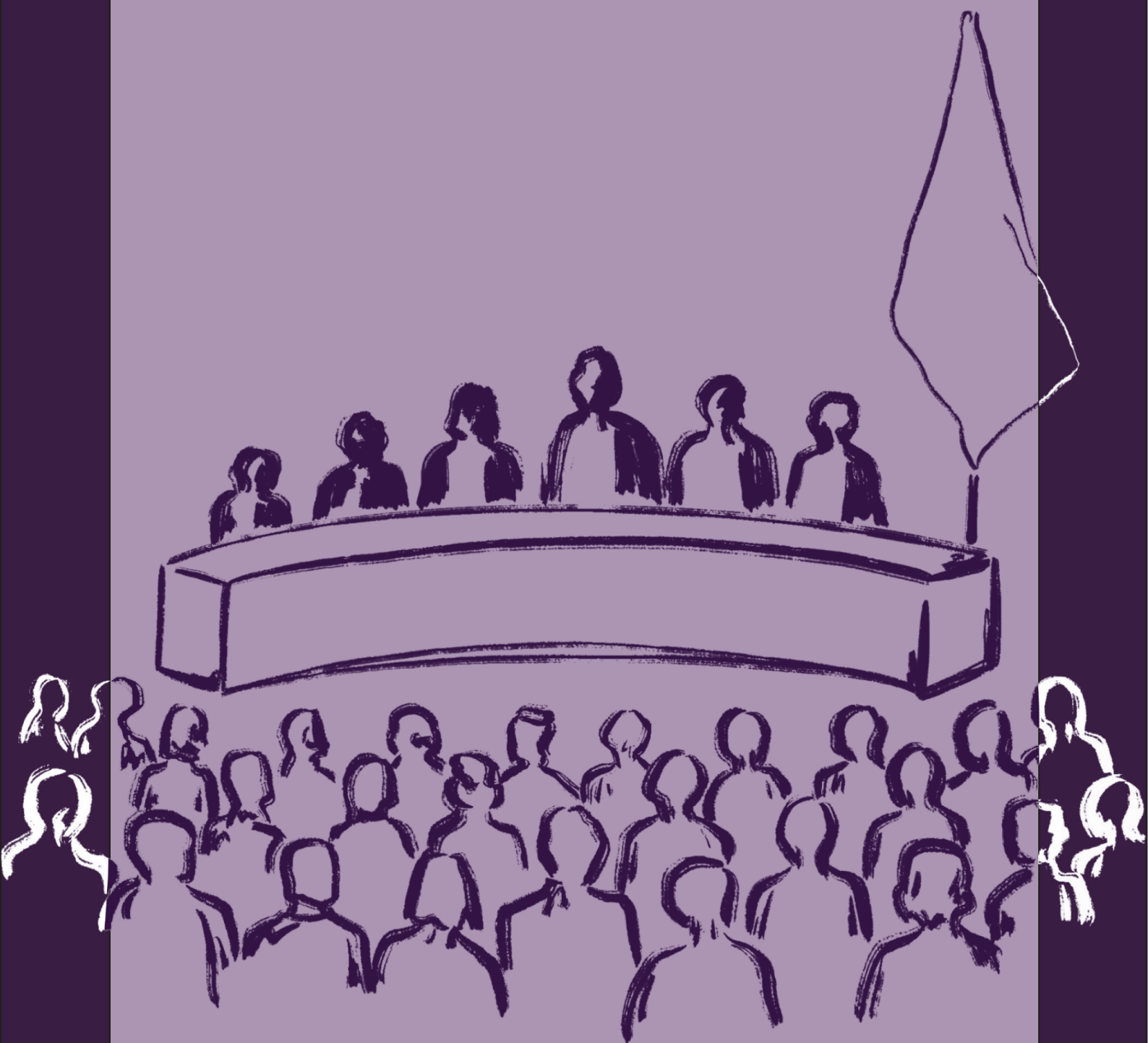
186 Interview with Expert 8 (July 2024).

187 Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024).

188 Idem.

189 Idem.

REGIONAL ACCOUNTABILITY MECHANISMS



2

Regional

Accountability Mechanisms

Most victims seem to have little to no knowledge about regional accountability mechanisms, although they generally agree that all possible avenues should be pursued to achieve justice. At the regional level, the African Union, African Commission on Human and Peoples' Rights (ACHPR) and the African Court of Justice and Human Rights (ACJHR), once established, offer potential avenues for justice. However, the effectiveness of these regional mechanisms is often undermined by the slowness of proceedings, Sudan's lack of cooperation, and the absence of robust enforcement mechanisms – factors that have led many of the CSOs interviewed for this report to question their reliability and relevance in the fight against impunity in Sudan.¹⁹⁰ Despite these challenges, they offer potential contributions to achieving accountability, alongside international and national efforts.

2.1 African Union

The African Union is the primary regional organisation with a responsibility to promote peace and security and to promote and protect human rights on the continent.¹⁹¹

The AU's Constitutive Act recognises its right "to intervene in a Member State" where international crimes are being committed.¹⁹² On this basis, the AU has been involved in peacekeeping and mediation efforts in Sudan. In 2004, the AU created the African Union Mission in Sudan (AMIS), a peacekeeping force of 150 troops, in charge of monitoring the ceasefire between the parties to the conflict and protecting civilians, that operated primarily in Darfur. However, AMIS was heavily criticised for its limited contributions to the peace process in Darfur, due to a limited and ambiguous mandate and insufficient resources.¹⁹³

Although the AU has made statements condemning the violence in Sudan, and created various mechanisms aimed at formulating solutions to the conflict, there is broad agreement that it has not been active enough in attempts to curb the violence and to use its influence to build regional consensus.¹⁹⁴ It is clear that the mere creation of new bodies does not in itself move the peace process forward.

190 Idem; Interview with Expert 4 (August 2024); Interview with Expert 5 (July 2024); Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

191 Article 3, [Constitutive Act of the African Union](#).

192 Ibid., Article 4(h).

193 Arvid Ekengard, *The African Union Mission in Sudan (AMIS), Experiences and Lessons Learned*, 2006.

194 ACCORD, *Silencing the guns, Owning the Future: Realising a conflict-free Africa*, 2015, pp. 11-2, 40.

2.1.1 The Peace and Security Council

The Protocol Relating to the Establishment of the Peace and Security Council was adopted in 2002 and entered into force in December 2003. The AU Peace and Security Council (PSC) became fully operational in early 2004. Defined as “a key pillar of the African Peace and Security Architecture,” the PSC the AU’s standing decision-making organ for the prevention, management and resolution of conflicts.¹⁹⁵ It aims to anticipate and prevent conflicts through its early warning functions and to respond to crises in Africa through collective security.¹⁹⁶ The PSC has intervened in Sudan during major crises, including in 2004 regarding the Darfur conflict, in 2019 during the military takeover, and again in 2021 following the coup.

On 6 June 2019, noting Sudan’s lack of progress towards the establishment of a civilian-led transitional authority, the PSC suspended the participation of the Republic of Sudan in all AU activities pending the establishment of such an authority.¹⁹⁷ While suspending a country’s membership from a regional or international organisation removes the possibility of dialogue with this country within the framework of that fora, such measures can carry significant reputational consequences. In some cases, suspension may exert pressure on a government to alter its course, encouraging reforms or concessions, though its overall effectiveness depends on the broader political and diplomatic context.

In a statement on 18 April 2024, the PSC condemned the human rights violations in Sudan and called for a ceasefire and dialogue.¹⁹⁸ It also “strongly warn[ed] the perpetrators that they will be held to account for their actions”.

Given the continued escalation of violence in Sudan, numerous human rights organisations have urged the PSC to take further action, particularly through the deployment of a peacekeeping mission to protect civilians. Several NGOs have called on the AU to work alongside the UN in establishing a civilian protection mission, citing the urgent need to prevent atrocities, especially in Darfur.¹⁹⁹ Most recently, in February 2025, a large coalition of advocacy groups, including Genocide Watch, pushed for a UN/AU peacekeeping mission, urging both organisations to authorise and fund such an initiative immediately.²⁰⁰ These appeals highlight a growing consensus among civil society actors that the PSC must take concrete measures beyond condemnatory statements to ensure civilian safety in Sudan.

195 AU, “The Peace & Security Council”, 2025.

196 Idem.

197 AU, “Sudan suspended from the African Union”, 2019.

198 AU, *Communique of the 1209th Meeting of the PSC held on 18 April 2024, on Briefing on the Situation in Sudan*, 18 April 2024, para. 7.

199 Human Rights Watch, “AU: Roll Out Civilian Protection Mission, Ensure Sudan Probe”, 20 June 2024. Amnesty International, “Sudan: UN and AU must prioritize protection of civilians in Darfur”, 19 May 2020.

200 Genocide Watch, “IRF Alliance Calls for UN-AU Force in Sudan”, 1 February 2025.

2.1.2 High-Level Panel on the Resolution of the Conflict in Sudan (AUHLP-Sudan)

In addition to the PSC's decision to suspend the participation of the Republic of Sudan, it took a significant step by establishing the High-Level Panel on the Resolution of the Conflict in Sudan (AUHLP-Sudan) following its 118th meeting, held at ministerial level on 15 November 2023.²⁰¹ The Panel, which commenced its work in January 2024, is mandated "to ensure an all-inclusive process towards the swift restoration of peace, constitutional order and stability".²⁰² Created to engage with a wide range of Sudanese stakeholders – including civilian forces, the military and regional and international actors – the AUHLP-Sudan aims to facilitate an inclusive process. So far, it has held consultations with regional leaders and the foreign ministers of Egypt, Djibouti, Ethiopia and South Sudan, as well as engaging with the Secretary General of the Arab League.

While the Panel itself may not directly oversee accountability measures, its role in promoting dialogue and consensus among all Sudanese stakeholders – including the military, civilian groups, and regional actors – could create the political will needed to incorporate accountability provisions into any eventual peace deal. Additionally, the AUHLP-Sudan could advocate for the establishment of truth commissions, trials for war crimes, or reparations for victims, which would be integral to both the healing process and long-term stability. Thus, its work may set the stage for a broader transitional justice framework that addresses impunity and contributes to lasting peace in Sudan. However, the extent of its impact on justice will largely depend on the commitment of the stakeholders involved and the broader political dynamics in Sudan and the region.

201 The panel was created by Communiqué PSC/MIN/COMM.1185 (2023).

202 John Mukum Mbaku, "The African Union is working on peace in Sudan: expert explains why it's in everyone's interests", DefenceWeb, 26 January 2024. The Panel is composed of Ghanaian diplomat Mohamed Chambas, former Ugandan Vice-president Speciosa Wandira-Kazibwe and Mozambican diplomat Francisco Madeira.

2.2 African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (ACHPR) is an important regional mechanism for justice and accountability available to Sudanese victims. Established under the African Charter on Human and Peoples' Rights, the ACHPR functions as a quasi-judicial body tasked with promoting and protecting human rights across the African continent.²⁰³ Sudan ratified the African Charter on Human and Peoples' Rights in 1986, binding itself to the obligations enshrined in the Charter.²⁰⁴ This includes the duty to uphold fundamental human rights such as the right to life, dignity, and security of person, and to protect individuals from torture, discrimination, and other forms of abuse.²⁰⁵ As a state party to the Charter, Sudan falls under the jurisdiction of the ACHPR, which provides an avenue for individuals, NGOs, and states to bring complaints regarding violations.²⁰⁶

The Commission has addressed human rights violations in Sudan on several past occasions, such as in the case of *Monim Elgak, Osman Hummeida, and Amir Suliman v. Sudan*, filed by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) on behalf of the victims.²⁰⁷ The case, decided in 2014, involved the arbitrary detention, torture, and ill-treatment of Sudanese human rights defenders. In its ruling, the ACHPR clarified that when gross human rights violations are shielded by domestic amnesty laws, victims are not required to exhaust domestic remedies before lodging complaints at the regional level. This landmark decision reinforced the Commission's commitment to holding states accountable, even in the presence of legal barriers at the national level, as is the case in Sudan. The ACHPR's decisions can also recommend that the concerned state party amend its legislation when it is incompatible with the African Charter or other human rights instruments, in order to align it with international standards.²⁰⁸

The ACHPR's advocacy and investigatory functions can contribute to addressing accountability gaps. This was the case in Tigray (Ethiopia),²⁰⁹ where it established a Commission of Inquiry to investigate human rights violations, including extrajudicial executions and sexual violence, and in Togo,²¹⁰ where it condemned the disproportionate use of force against demonstrators and called for independent investigations to ensure accountability. In contexts such as Sudan, where impunity has persisted for decades, the ACHPR can initiate fact-finding missions to document violations independently. This documentation can serve as reliable evidence for other accountability mechanisms, including prosecutions at the ICC, or domestic prosecutions in third states based on universal jurisdiction.

203 African Charter on Human and People's Rights, 1981, Art. 30; Malcolm Evans and Rachel Murray, *The African Charter on Human and Peoples' Rights: The System in Practice 1986-2000*, Cambridge University Press, 2nd ed., 2002.

204 African Charter on Human and People's Rights, 1981.

205 Ibid., Arts. 4-6; Amnesty International, *A Guide to the African Charter on Human and Peoples' Rights*, 2006.

206 African Charter on Human and People's Rights, 1981, Arts. 48, 49 and 55; ACHPR, "Information Sheet No. 2: Guidelines for the Submission of Communications, Organisation of African Unity", 13 April 2021.

207 ACHPR, *Monim Elgak, Osman Hummeida, Amir Suliman v. Sudan*, Decision of the African Commission on Merits, 14 March 2014.

208 See, for example, ACHPR, *Communication 470/14 – Ibrahim Almaz Deng & 6 Others (Represented by IHRDA) v. Sudan*, 13 May 2022.

209 ACHPR, "Press Statement on the Official Launch of the Commission's Inquiry into the Situation in Tigray", 15 June 2021.

210 ACHPR, *Resolution on the Human Rights Situation in Togo*, ACHPR/Res.397(LXII), 9 May 2018.

In 2024, the ACHPR adopted a resolution committing to establishing a Fact-Finding Mission to Sudan (ACHPR Sudan FFM).²¹¹ The mandate of this mission includes investigating human rights violations and breaches of international humanitarian law, particularly those affecting civilians amid the ongoing conflict. The mission aims to document and verify information, identify responsible parties, and recommend accountability measures to address impunity and ensure justice for victims.²¹²

However, delays in dispatching the ACHPR Sudan FFM have been reported, primarily due to funding constraints, which have hindered its swift implementation. To expedite the operationalisation of the ACHPR Sudan FFM, increased cooperation and collaboration with other investigative mechanisms, such as the UN Sudan FFM and the ICC, will be essential. These partnerships could enhance resource mobilisation, avoid duplication, and strengthen the overall effectiveness of evidence collection and accountability efforts. The integration of efforts between the ACHPR, the UN and the ICC would also bolster international pressure on Sudanese authorities to facilitate the work of these bodies, ultimately advancing the pursuit of justice for victims.

In addition, the ACHPR plays an important role in strengthening civil society in Sudan. By providing a forum for victims and human rights organisations to voice grievances and seek justice, the Commission empowers local actors and reinforces the broader human rights movement. This is especially important in the context of Sudan, where civil society has faced severe repression – including the arbitrary detention of human rights defenders, violent suppression of protests, and frequent internet shutdowns designed to silence dissent and obstruct the documentation of abuses.²¹³

A considerable shortcoming of the ACHPR is its lack of direct enforcement powers to compel state compliance with its decisions. However, the Commission can refer cases to the African Court on Human and Peoples' Rights.²¹⁴ While Sudan has not ratified the Protocol establishing the African Court – and such a referral would thus not result in a binding judgment – a referral by the ACHPR can serve as a powerful political and advocacy tool. It, and could highlight the government's failure to fulfil its obligations under the Charter, increase regional pressure on Sudan to comply with international human rights standards, and could also further isolate Sudan regionally by drawing attention to its persistent human rights violations.

211 ACHPR, [Resolution on the Human Rights Situation in the Republic of Sudan](#), ACHPR/Res.588(LXXIX), 10 June 2024.

212 Idem.

213 FIDH, "Sudan: Rising Attacks Against WHRDs and Women's Rights Groups", 9 February 2024.

214 [Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and People's Rights](#), 1998, Art. 5(1)(b).

2.3 African Court on Human and Peoples' Rights and African Court of Justice and Human Rights

2.3.1 African Court on Human and Peoples' Rights

The African Court on Human and Peoples' Rights (ACtHPR) was created by a Protocol to the African Charter on Human and Peoples' Rights, adopted on 9 June 1998 by the Organisation of African Unity (which has since become the African Union). It entered into force on 25 January 2004.²¹⁵ The ACtHPR aims to complement the ACHPR's protective mandate²¹⁶ and has jurisdiction to hear cases and disputes relating to the interpretation and application of the African Charter, the ACtHPR Protocol and any other human rights instrument ratified by the state concerned. The ACtHPR does not have jurisdiction over any alleged violation that occurred before the state concerned became party to its Protocol – except in cases where the alleged violations are continuous in character.²¹⁷ Unfortunately, Sudan has yet to ratify the ACtHPR Protocol and therefore the Court does not have jurisdiction over the ongoing human rights violations.

2.3.2 African Court of Justice and Human Rights

In 2008, the AU adopted a Protocol and Statute creating the African Court of Justice and Human Rights (ACJHR), designed to merge the existing ACtHPR with the Court of Justice of the AU.²¹⁸ However, the Protocol has yet to enter into force, as it requires ratification by 15 Member States. In 2024, Angola became the first state to ratify.²¹⁹

In 2014, the AU adopted the Protocol on Amendments to the Protocol of the ACJHR (also known as the Malabo Protocol), creating a regional criminal court for Africa. The Malabo Protocol contains several innovative elements:²²⁰ if and when it comes into force, the Protocol would amend the court's mandate to add criminal jurisdiction over a series of international crimes beyond its human rights mandate. The Malabo Protocol includes the four core international crimes (war crimes, crimes against humanity, genocide and the crime of aggression), as well as ten additional crimes, such as the crimes of unconstitutional change of government, piracy, terrorism, corruption and corporate criminal responsibility.²²¹

²¹⁵ Ibid.

²¹⁶ Ibid., Art. 2.

²¹⁷ *Twifo Hemang Community et al. v. Ghana*, Judgment (Jurisdiction), 2016, Request No. 059/2016, para. 53; *Baedan Dogbo Paul & Baedan M'Bouke Faustin v. Republic of Côte d'Ivoire* Judgment, 5 September 2023, Application 019/2020, para. 29.

²¹⁸ AU, *Protocol on the Statute of the African Court of Justice and Human Rights*, 2008.

²¹⁹ Human Rights Watch, "Angola Becomes First Country to Join African Criminal Court", 14 June 2024.

²²⁰ AU, *Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights*, 2014; Charles Jalloh, Vincent Nhemle, K. Clarke (eds.), *The African Court of Justice and Human and Peoples' Rights in Context*, May 2019, Cambridge University Press.

²²¹ AU, *Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights*, 2014, Art. 14.

CSOs have voiced concerns over various aspects that would undermine the legitimacy and credibility of the future court, including its broad mandate combined with its limited capacity and resources (15 judges to oversee the three sections of general affairs, human rights and international criminal law, including 14 crimes, as opposed to 18 judges to oversee four core international crimes at the ICC).²²² Another key issue is the inclusion of immunity from prosecution before the Court for serving heads of state or government, or other senior state officials, which would constitute a significant obstacle to the fight against impunity and contradict the practice of other international courts.²²³

However, if these issues are resolved, once established the Court could play a significant role in the fight against impunity for international crimes in Africa, alongside national courts and other regional and international accountability mechanisms. The ACJHR would have the benefits of having jurisdiction over an expanded set of crimes, beyond the core international crimes and beyond personal jurisdiction, extending its application to corporations in some circumstances. The additional set of crimes included in the Malabo Protocol, such as mercenarism,²²⁴ corruption,²²⁵ trafficking in hazardous wastes²²⁶ and illicit exploitation of natural resources,²²⁷ deal with some of the contemporary challenges faced by the continent and have the potential to address the root causes of conflicts and violence in Africa. Addressing these non-atrocity crimes could even play a preventive function in relation to core international crimes.²²⁸ The ACJHR would also be more accessible and closer to local communities than other international mechanisms.

Despite these challenges, it is recommended that AU Member States, including Sudan, ratify the Malabo Protocol, as advocated by African CSOs, so the Court can be established²²⁹.

222 Amnesty International, "Malabo Protocol: Legal and Institutional Implications of the Merged and Expanded African Court Snapshots", 1 May 2017, pp. 5-6; Human Rights Watch, "Angola Becomes First Country to Join African Criminal Court", 14 June 2024.

223 AU, Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 2014, Art. 46A bis; See also Human Rights Watch, "Call for African States to Reject Immunity for Serious Crimes by African Civil Society Organisations and International Organisations with a Presence in Africa", 24 August 2014.

224 AU, Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 2014, Art. 28H.

225 AU, Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 2014, Art. 28I.

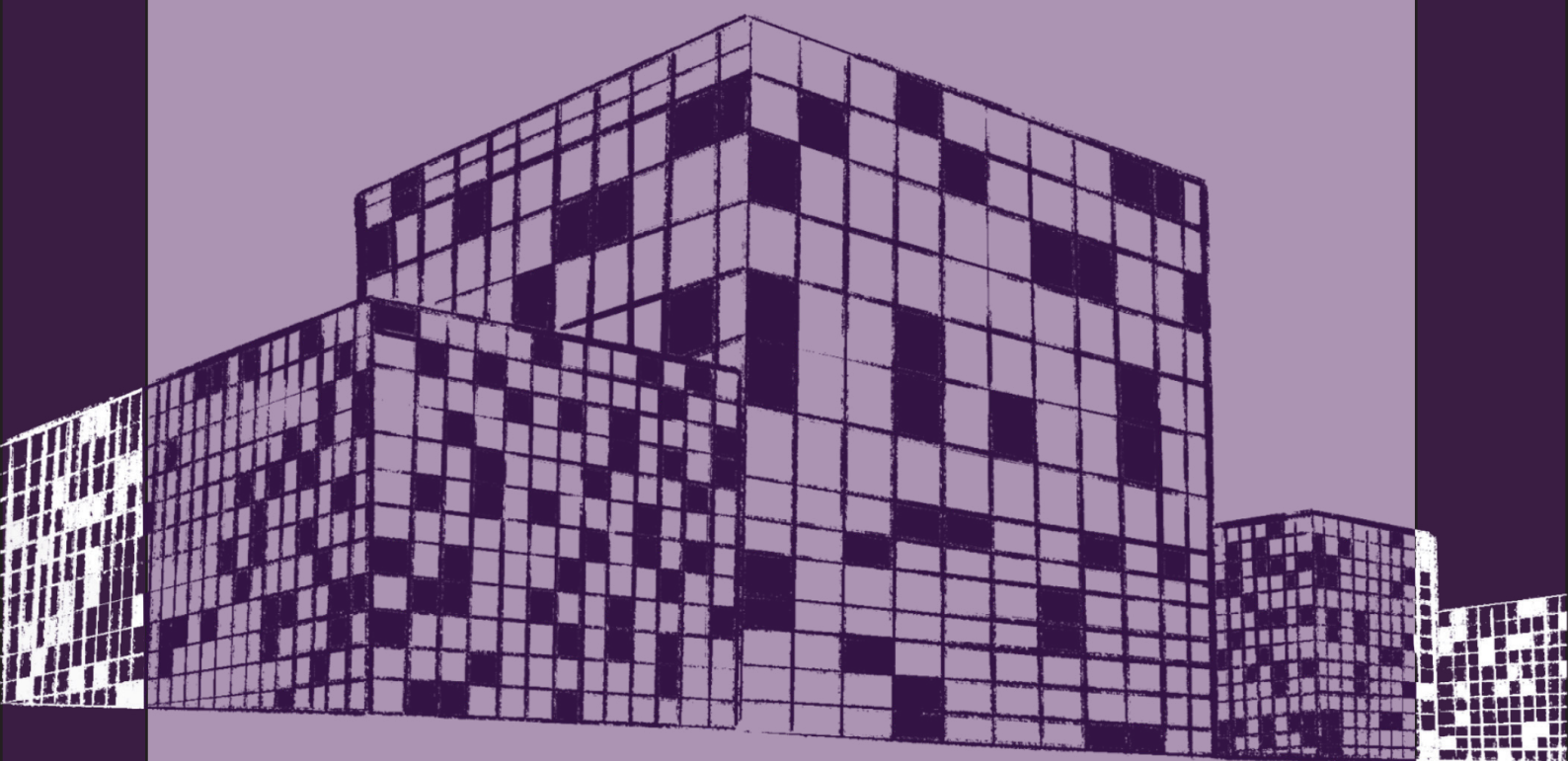
226 Idem.

227 AU, Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 2014, Art. 28L Bis.

228 Charles Jalloh, Comments at African Court Research Initiative International Symposium, Arusha, Tanzania, 28-29 July 2016.

229 See, for example, African Court Coalition, Updates, 13 May 2022; PATROL-AFRICA, "PATROL-AFRICA regrets dismal ratification of the Malabo Protocol", 5 June 2024; Atrocities Watch Africa post on X, 11 June 2024.

INTERNATIONAL ACCOUNTABILITY MECHANISMS



3 International Accountability Mechanisms

3.1 International Criminal Court

The ICC is the only permanent international court established to investigate and prosecute individuals accused of core international crimes: war crimes, crimes against humanity, genocide, and the crime of aggression. Sudan is not an ICC State Party, having signed but not ratified the Court's founding treaty, the Rome Statute.²³⁰

However, in March 2005, the UNSC adopted Resolution 1593 referring the situation in Darfur to the ICC. As a result, the ICC has jurisdiction over Rome Statute crimes committed in Darfur, Sudan from 1 July 2002 onwards.²³¹ Based on this referral, the ICC Prosecutor opened an investigation in June 2005, initially focusing on allegations of war crimes and crimes against humanity, and later expanding to include allegations of genocide committed in Darfur.²³² Since then, several cases have been initiated against suspects affiliated with the Sudanese government and the Janjaweed militia.²³³ After almost 20 years, only one case against Ali Muhammad Ali Abd-Al-Rahman, an alleged Janjaweed leader handed over to the ICC in 2020, has been brought to trial, with proceedings ongoing.²³⁴ Meanwhile, three other suspects with outstanding arrest warrants remain at large.

Although the ICC is the best-known international accountability mechanism among victims, it elicits mixed feelings. Some view it as an effective avenue for justice, mainly citing its impartiality and comprehensive laws on international crimes compared to Sudanese national courts, as well as its ability to try commanders and high-level perpetrators.²³⁵ In the words of a survivor: "I believe the ICC can bring justice to Sudan and when this happens it will satisfy me personally, because I will see big fish brought before the Court and tried for the crimes they committed."²³⁶ However, many others, including victims and CSOs interviewed, expressed frustration with the slow pace of ICC proceedings, the lack of tangible results after almost 20 years, and its inability to try all perpetrators.²³⁷ A survivor stated "I don't think the ICC can deliver justice or achieve justice for Sudan, I don't trust the ICC because we didn't see any criminal persecuted before it. [...] We in Darfur waited for years to see al-Bashir and others indicted to be handed over to the ICC, but

230 Although Sudanese authorities announced their decision to ratify the Rome Statute in 2021, the military coup later that year changed the state's priorities and domestic efforts to join the ICC were not completed. *Rome Statute of the International Criminal Court* (1998); Parliamentarians for Global Action, *Sudan: One Step Closer to Ratifying the Rome Statute of the International Criminal Court*, 5 August 2021; Mohamed Osman, *New International Criminal Court Probe in Recent Attacks in Sudan's Darfur*, The Tahrir Institute for Middle East Policy, 19 October 2023.

231 UNSC, *Resolution 1593*, UN Doc. S/RES/1593 (31 March 2005).

232 ICC, "The Prosecutor of the ICC opens investigation in Darfur", 6 June 2005; See also ICC, "Situation in Darfur, Sudan".

233 ICC, "Situation in Darfur, Sudan".

234 *The Prosecutor v. Ali Muhammad Ali Abd-al-Rahman ("Ali Kushayb")*, ICC-02/05-01/20, 2020.

235 Interview with Victim 1 (Adre, July 2024); Interview with Victim 2 (Adre, July 2024); Interview with 5 CRSV victims (Group 2, Adre, July 2024); Interview with Victim 5.

236 Interview with Victim 1 (Adre, July 2024).

237 Interview with Victim 4; Interview with Expert 3; Interview with Victim 5; Interview with Expert 6 (July 2024); Interview with Expert 9 (12 August 2024); Interview with Expert 5 (July 2024); Interview with Mohamed Hassan, Director of the Darfur Network for Human Rights (July 2024).

nothing happened yet.”²³⁸ CSOs have highlighted a growing feeling of mistrust among victims towards the ICC due to its failure to deliver justice.²³⁹ They also criticised the lack of outreach, which leaves victims unaware of the progress of the investigation.²⁴⁰ The absence of outreach not only deepens frustration and mistrust but also fuels misunderstandings about the Court’s role and limitations, further alienating the very communities it is meant to serve and reinforcing perceptions of inaccessibility and detachment from the realities victims face.

In July 2023, the ICC Prosecutor announced to the UNSC that his Office was investigating alleged Rome Statute crimes committed in Darfur within the context of the armed conflict that broke out in mid-April 2023 between the SAF and the RSF and affiliated groups. He stressed that the investigation would focus not only on acts committed in Sudan, but also on “[a]ny individual that aids and abets, encourages or directs from outside Sudan, crimes that may be committed in Darfur”.²⁴¹ Based on the subsequent investigation by the Office of the Prosecutor (OTP), in 2024 the ICC Prosecutor indicated that “there are grounds to believe” that Rome Statute crimes are being committed in Darfur by both the SAF and the RSF and affiliated groups.²⁴²

The OTP’s current investigation is limited to Darfur because it is based on the 2005 UNSC referral. ICC jurisdiction does not extend to alleged crimes committed in other regions of Sudan, even though the conflict that erupted in mid-April 2023 is not confined to Darfur. Although this jurisdictional gap should be closed by a new UNSC referral, the present political climate within the UNSC makes this highly unlikely.²⁴³ Nevertheless, an effective prosecutorial strategy requires the OTP to consider the “significant continuity of and nexus between international crimes committed in Darfur and the rest of the country”.²⁴⁴

In addition to the ICC’s limited territorial jurisdiction, the Court lacks the mandate and resources to investigate all alleged Rome Statute crimes, hold all perpetrators accountable, or deliver justice to all victims of atrocities committed since the start of the ongoing conflict in Sudan. This reality requires the ICC to select and prioritise cases, and often to focus on those most responsible for Rome Statute crimes. For example, the ICC Prosecutor stated, in July 2023, that he had instructed his Office to prioritise crimes against children and crimes of sexual and gender-based violence.²⁴⁵ Selection and prioritisation of cases also means that potential ICC reparations will be restricted to victims recognised in a specific case following a conviction. However, the ICC’s Trust Fund for Victims’ assistance mandate extends support to those who experienced harm regardless of whether it is linked to the crimes prosecuted in a particular case. Assistance can include physical and psychological rehabilitation, as well as material support.²⁴⁶

238 Interview with Victim 4.

239 Interview with Expert 4 (August 2024); Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024); Interview with Expert 8 (July 2024); Interview with international criminal lawyer, Wayamo Foundation (July 2024).

240 Interview with Abdel Salam Sidahmed, Chairperson of the Sudanese Human Rights Monitor (July 2024).

241 ICC, “Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)”, 13 July 2023.

242 ICC, “Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)”, 30 January 2024.

243 See the statement by the Russian Federation, which holds veto power in the UNSC, in response to the ICC Prosecutor’s briefing to the UNSC on 5 August 2024: “It is clear that the Council should never again refer any situations to this pseudo-court. [...] The Council should withdraw the Darfur and Libya situations from the ICC”. UNSC, 9697th Meeting, UN Doc. S/PV.9697 (5 August 2024), p. 16.

244 REDRESS et al., *Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan*, September 2024, pp. 10, 51-2.

245 ICC, “Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)”, 13 July 2023.

246 The Trust Fund for Victims, “Our Mandates”, ICC, 2025; The Trust Fund for Victims, “Assistance Mandate”, ICC, 2025. In addition to the ICC reparations framework, the UN Fact-Finding Mission on Sudan recommended the establishment of a victim support and reparations office with a broader mandate that can also work on awarding interim reparative measures: see UN Fact-Finding Mission on Sudan, *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*, UN Doc. A/HRC/57/CRP.6, 23 October 2024, pp. 2, 78 (para. 337), 80 (para. 342 (g)).

Limited state cooperation in the Darfur Situation has been a recurring and long-standing challenge for the ICC. A striking example is the lack of cooperation by Sudanese authorities in executing the 2009 and 2010 ICC arrest warrants against the then-President Omar al-Bashir, on charges of war crimes, crimes against humanity, and genocide.²⁴⁷ Indeed, the Sudanese government, at the time under al-Bashir's leadership, flatly rejected the charges.²⁴⁸ Despite not being a State Party to the Rome Statute, Sudan has an international legal obligation to surrender al-Bashir based on UNSC Resolution 1593 (2005), adopted under Chapter VII of the UN Charter, referring the situation in Darfur to the ICC.²⁴⁹ The Resolution requires Sudan to cooperate with the ICC, unless it can dispute the admissibility of the case by demonstrating its ability and willingness to investigate.²⁵⁰ While al-Bashir was convicted for corruption-related offences before Sudanese courts in 2019, after his ousting by the military earlier that year, he has not been investigated in Sudan for international crimes committed in Darfur.²⁵¹ Third states, including States Parties to the Rome Statute such as South Africa and Jordan, have also refused to execute ICC arrest warrants over the years, despite their legal obligation to cooperate with the Court and al-Bashir's lack of head of state immunity under the Rome Statute.²⁵² The arrest warrants generated much criticism of the Court, with some African states at the time contemplating a mass withdrawal from the Rome Statute under the impetus of the African Union.²⁵³ Although Sudan and the ICC signed a new Memorandum of Understanding covering all indictees in August 2021, al-Bashir and other suspects remain at large.²⁵⁴ The ICC does not try individuals *in absentia*.

The OTP has also faced considerable cooperation challenges during its investigations into the recent conflict between the SAF and RSF. However, while the ICC Prosecutor stressed in his January 2024 statement to the UNSC the lack of cooperation from the SAF and the Sudanese government, he noted in August 2024 that his Office finally received cooperation from Sudan with some assistance requests being actioned and others remaining pending.²⁵⁵ Despite significant efforts by the OTP to engage with RSF leadership, these efforts have not yielded any tangible results.²⁵⁶ For the OTP to fulfil its accountability mandate, it requires not only Sudan's cooperation, but also greater support from regional and international actors, including resources, political backing, and cooperation.²⁵⁷

247 ICC, *The Prosecutor v. Omar Hassan Ahmad Al Bashir, Warrant of Arrest for Omar Hassan Ahmad Al Bashir*, ICC-02/05-01/09, 4 March 2009; ICC, *The Prosecutor v. Omar Hassan Ahmad Al Bashir, Second Warrant of Arrest for Omar Hassan Ahmad Al Bashir*, ICC-02/05-01/09, 12 July 2010.

248 Leela Jacinto, "Sudan Rejects ICC's War Crimes Accusation", *France 24*, 15 July 2008.

249 The UNSC "[d]ecides that the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution". UNSC, Resolution 1593 (2005), UN Doc. S/RES/1593, 31 March 2005, para. 2.

250 ICC Rome Statute, Art. 17; FIDH and African Centre for Justice and Peace Studies (ACJPS), *Delays and Dilemmas: New Violence in Darfur and Uncertain Justice Efforts with Sudan's Fragile Transition*, November 2021, pp. 67-8.

251 FIDH and ACJPS, *Delays and Dilemmas: New Violence in Darfur and Uncertain Justice Efforts with Sudan's Fragile Transition*, November 2021, p. 66.

252 ICC Rome Statute, Art. 86; Amnesty International, "ICC Rules Against South Africa on Shameful Failure to Arrest President Al-Bashir", 6 July 2017; Tom White, "States Failing to Seize Sudan's Dictator Despite Genocide Charge", *The Guardian*, 21 October 2018; ICC, "Al-Bashir Case: ICC Appeals Chamber Confirms Jordan's Non-Cooperation but Reverses the Decision Referring it to the ASP and UNSC", 6 May 2019.

253 Wayamo Foundation and Konrad Adenauer Stiftung, *Precarity or Prosperity: African Perspectives on the Future of the International Criminal Court*, December 2020, pp. 21, 31.

254 ICC, "The Prosecutor of the International Criminal Court, Mr Karim A.A. Khan QC, Concludes His First Visit to Sudan with the Signing of a New Memorandum of Understanding Ensuring Greater Cooperation", 17 August 2021.

255 ICC, "Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)", 30 January 2024; ICC, "Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)", 6 August 2024.

256 ICC, "Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)", 6 August 2024.

257 Idem; UN Fact-Finding Mission on Sudan, *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*, UN Doc. A/HRC/57/CRP.6, 23 October 2024, para. 332.

While the OTP has conducted several missions to neighbouring Chad to collect testimonial evidence from Sudanese witnesses and victims displaced by the conflict, gaining direct access to Sudan remains crucial for advancing ICC investigations into recent and ongoing crimes. In 2024, an OTP team was able to enter Port Sudan to gather evidence.²⁵⁸ The OTP has also launched campaigns asking the public to share evidence about Rome Statute crimes allegedly committed in Sudan with the Office, including recently in June 2024.²⁵⁹ Further, the Prosecutor has announced that the OTP is working on putting forward applications for new arrest warrants in relation to crimes committed in West Darfur.²⁶⁰ However, the situation in parts of Darfur has been so severe that civil society actors have been unable to safely document violence on the ground. Instead, they have focused on collecting and verifying open-source information for future accountability efforts. Notably, according to media reports, perpetrators have been filming themselves and posting this material online, providing potential evidence for ICC investigations.²⁶¹

258 ICC, “Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)”, 6 August 2024.

259 UN News, “ICC Prosecutor Appeals for Evidence of Darfur Atrocities”, 11 June 2024; ICC, “Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)”, 13 July 2023.

260 ICC, “Statement of ICC Prosecutor, Karim A.A. Khan KC, to the United Nations Security Council on the Situation in Darfur, Pursuant to Resolution 1593 (2005)”, 28 January 2025.

261 Kaamil Ahmed and Faisal Ali, “Sudanese Rebels Appear to be Posting Self-Incriminating Videos of Torture and Arson on Social Media”, *The Guardian*, 11 September 2024.

3.2 International Court of Justice

The International Court of Justice (ICJ) is “the principal judicial organ of the United Nations.”²⁶² Its jurisdiction extends only to states, excluding individual responsibility.²⁶³ The ICJ handles two types of cases: contentious cases, which involve legal disputes between states, and advisory proceedings, in which UN organs and specialised agencies request legal opinions.²⁶⁴ While the ICJ is usually not the first court to come to mind for the prosecution of international crimes – this role is more appropriately fulfilled by the ICC, which was specifically designed for this purpose – it has increasingly been seized by states to address violations of human rights treaties.

In cases such as *Bosnia and Herzegovina v. Serbia and Montenegro* (2007), *Croatia v. Serbia* (2015) and *The Gambia v. Myanmar* (2022), the ICJ had jurisdiction on the basis of alleged violations of the Genocide Convention.²⁶⁵ More recently, South Africa initiated proceedings against Israel for alleged violations of the Genocide Convention in relation to its actions in the Gaza Strip since 7 October 2023.²⁶⁶

Similarly, atrocities committed in Sudan that meet the definition of genocide could fall under the jurisdiction of the ICJ, as Sudan has ratified the Genocide Convention.²⁶⁷ In March 2025, Sudan filed a claim against the United Arab Emirates (UAE) before the ICJ on that basis. In that case, Sudan argues that the RSF has been committing acts of genocide against the Masalit group in Sudan since at least 2023 and that the UAE “is complicit in the genocide on the Masalit through its direction of and provision of extensive financial, political, and military support for the rebel RSF militia.”²⁶⁸ The claim was accompanied by a request for the Court to indicate provisional measures, pending a final judgment in the case, including that the UAE take all measures within its power to prevent the commission of acts of genocide against the Masalit in Sudan and that the UAE ensure that any irregular armed units which may be directed or supported by it and any organisations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, or of conspiracy to commit genocide, of direct and public incitement to commit genocide, of attempts to commit genocide, or of complicity in genocide.²⁶⁹

According to Article IX of the Genocide Convention, the ICJ has jurisdiction over disputes relating to the interpretation, application or fulfilment of the Convention by State Parties. The ICJ has recognised that obligations under the Genocide Convention are owed to the international community as a whole (*erga omnes partes*).²⁷⁰ This means that any State Party to the Genocide Convention can bring a case against another state for acts of genocide without having to prove special interest, meaning it does not need to be directly affected or have nationals who are victims. The ICJ does require the existence of a dispute between states to take on a case,²⁷¹

²⁶² UN Charter, Art. 92.

²⁶³ UN Charter, Art. 34.

²⁶⁴ ICJ, “How the Court Works”, 2025.

²⁶⁵ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, November 2019; ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, March 1993; ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, July 1999.

²⁶⁶ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, December 2023.

²⁶⁷ UN Treaty Series, *Convention on the Prevention and Punishment of the Crime of Genocide*, 12 January 1951.

²⁶⁸ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Sudan (Sudan v. United Arab Emirates)*, *Application instituting proceedings*, 5 March 2025, para. 10.

²⁶⁹ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Sudan (Sudan v. United Arab Emirates)*, *Request for the Indication of Provisional Measures*, 5 March 2025, para. 22.

²⁷⁰ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, *Judgment*, 22 July 2022.

²⁷¹ International Court of Justice, “How the Court Works”, 2025.

which can be challenging to prove in cases based on *erga omnes* obligations. Recently, there has been a shift towards using multilateral evidence, such as diplomatic statements and UN interventions, to establish a dispute, instead of relying solely on formal bilateral interactions or negotiations.²⁷² In *South Africa v. Israel* for example, the Court accepted such evidence, despite Israel's objections, allowing the Court to focus on broader community interests.²⁷³ However, the determination of whether a dispute exists remains at the Court's discretion.

While the ICJ could serve as a potential avenue for justice for Sudan, it is notoriously slow, often taking years to bring cases to conclusion. One way of achieving justice for Sudan on an expedited basis could be through making use of the ICJ's provisional measures mechanism. Provisional measures are the equivalent of an interim order, protecting the rights of the parties pending the final decision in a dispute.²⁷⁴ In *South Africa v. Israel* for example, the ICJ issued several interim orders, indicating a number of provisional measures to be implemented by Israel.²⁷⁵ In the latest order issued in May 2024, the Court ordered Israel to "immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part."²⁷⁶

While many have praised South Africa for its principled and proactive decision to confront Israel at the ICJ, expectations should perhaps be tempered as provisional measures ordered by the ICJ are often not enforced. Although the ICJ has held that provisional measures impose legally binding obligations on the parties and that non-compliance could give rise to a case of state responsibility,²⁷⁷ uncertainty remains as to the consequences of non-compliance.

272 Marina Fortuna, "Statements by Officials on Social Media as Evidence before the ICJ", *EJIL:Talk!*, 25 June 2024.

273 ICJ, *Verbatim Record of Public Sitting in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, 11 January 2024, pp. 28, 32-5, 38, 68 (tweets and statements by UN organisations, country officials, experts), pp. 43-5 (diplomatic statements by South African Government); ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order on the Request for the Indication of Provisional Measures, 26 January 2024.

274 Matei Alexianu, "Provisional but Not (Always) Pointless: Compliance with ICJ Provisional Measures", *EJIL:Talk!*, 3 November 2023. ("Like interim injunctions issued by national courts, provisional measures seek to freeze the legal situation between parties to ensure the integrity of a final judgment"); See also Aceris Law LLC, "Provisional Measures Through the Lens of the ICJ's Decision in *South Africa v. Israel*", 25 February 2024.

275 See ICJ, *South Africa v. Israel*, December 2023; In this case the Court found that, in light of the evidence presented by South Africa, and citing numerous Special Rapporteur reports and statements by various UN officials and agencies, there was plausibility that Israel was committing acts that constitute genocide and other prohibited acts under the Convention. See Jinan Bastaki, "The ICJ's Provisional Orders Measures and the Responsibility of Third States", *Opinio Juris*, 5 February 2024.

276 ICJ, *South Africa v. Israel*, Order, 24 May 2024, para. 57(2); See also Mischa Gureghian Hall, "Assessing the Contents of the ICJ's Latest Provisional Measures Order in *South Africa v. Israel*", *EJIL:Talk!*, 6 June 2024.

277 The ICJ settled the matter of whether provisional measures are binding in 2001 in ICJ, *LaGrand (Germany v. United States of America)*, Judgment, 27 June 2001.

3.3 UN Mechanisms

3.3.1 UN Fact-Finding Mission

In October 2023, the UN Human Rights Council established the Independent International Fact-Finding Mission for the Sudan (UN Sudan FFM).²⁷⁸ The Mission's mandate is to investigate and establish the facts, circumstances, and root causes of all alleged human rights violations and abuses, including violations of international humanitarian law, committed by all parties to the Sudanese conflict. The UN Sudan FFM's mandate also includes collecting, analysing and preserving evidence of such violations and abuses in view of any future legal proceedings, as well as identifying, where possible, those individuals and entities responsible with a view to ensuring that they are held accountable.²⁷⁹

The UN Sudan FFM therefore plays a crucial role in support of fact-finding, accountability, and truth and justice for victims, as it is currently the only international mechanism actively investigating and reporting on violations committed in the entire territory of Sudan since 15 April 2023, including their root causes. The UN Sudan FFM's mandate to collect and preserve evidence ensures that evidence will not get lost in the absence of national investigations, but also that the evidence gathered could support future accountability efforts to hold perpetrators to account before national, regional and international mechanisms such as the ICC, or national courts through the exercise of universal jurisdiction.

In its comprehensive report released in September 2024, the UN Sudan FFM made several key recommendations related to justice and accountability:²⁸⁰ noting that the country's legal framework for prosecuting war crimes is limited and its judicial infrastructure has been severely damaged by the conflict, the UN Sudan FFM called for the establishment of a comprehensive transitional justice process, incorporating both national and international mechanisms to address accountability gaps. It stressed the need to extend the ICC's jurisdiction to cover all of Sudan, given the widespread nature of violations, and recommended the creation of hybrid or internationalised courts. Additionally, it recommended establishing a truth-seeking process to identify and address the root causes of violations, through a truth commission with the authority to refer cases to judicial bodies but without the power to grant amnesty for international crimes. The UN Sudan FFM also called for the creation of a dedicated mechanism to ensure reparations for victims, including compensation and rehabilitation as part of a broader effort to support survivors and prevent future violations.

In October 2024, the UN Human Rights Council voted to extend the mandate of the UN Sudan FFM.²⁸¹ The Sudanese government strongly opposed the decision, accusing the Mission of bias against the army.²⁸² However, supporters of the extension argued that it would

278 UN Human Rights Council, *Responding to the human rights and humanitarian crisis caused by the ongoing armed conflict in the Sudan*, UN Doc. A/HRC/RES/54/2, 12 October 2023.

279 Idem.

280 UN Human Rights Council, *Report of the Independent International Fact-Finding Mission for the Sudan*, UN Doc. A/HRC/57/23, 6 September 2024.

281 UN Human Rights Council, *Responding to the human rights and humanitarian crisis caused by the ongoing armed conflict in the Sudan*, UN Doc. A/HRC/57/L.22, 7 October 2024; *Sudan Tribune*, "Sudan rejects U.N. fact-finding mission extension, citing bias", 9 October 2024.

282 *Sudan Tribune*, "Sudan rejects U.N. fact-finding mission extension, citing bias", 9 October 2024.

enable the continued collection of crucial evidence for international courts and UN bodies, strengthening global efforts to combat impunity and deliver justice in Sudan.²⁸³

Victims and CSOs are essential partners in supporting the work of the UN Sudan FFM by offering first-hand accounts, evidence, and documentation of human rights violations. Submissions are welcomed on an ongoing basis, with the Mission regularly issuing targeted calls for specific input on particular crimes or patterns of violations. For instance, in July 2024, and again in early 2025, the UN Sudan FFM called upon individuals, organisations, and other stakeholders to submit testimonies, reports, and other relevant documentation to assist in its investigation.²⁸⁴ These contributions are vital in shaping the Mission's findings and promoting accountability for violations, with strict measures in place to ensure the confidentiality, security, and safety of those providing information.

While UN Fact-Finding Missions are important tools in pursuing justice and accountability in terms of their potential to support legal proceedings against perpetrators of international crimes and human rights violations through the evidence collected – the UN Sudan FFM being no exception – their success is heavily dependent on external factors, as they lack the mandate or power to enforce legal accountability directly. Their effectiveness hinges on a number of key factors, including political will, state cooperation, functioning judicial mechanisms, funding, and the enforcement of international norms. The UN Sudan FFM, for instance, faced significant challenges due to the UN's liquidity crisis, which delayed many of its activities and hiring processes until political and diplomatic efforts resolved asset freezes.²⁸⁵ The Mission has also repeatedly called on Sudan and neighbouring countries to provide unfettered access to their territories, but has faced continued challenges in this regard.²⁸⁶

Ultimately, while Fact-Finding Missions contribute significantly to the broader pursuit of justice by documenting abuses and violations that can amount to international crimes, their impact on direct accountability remains highly contingent on broader political and legal dynamics.

283 Committee for Justice, "Sudan: CFJ welcomes extension of the Fact-Finding Mission's mandate and calls for support of efforts to achieve justice and accountability", 11 October 2024.

284 OHCHR, "FFM Sudan - Call for Submissions".

285 Sarah Jackson, "Sudan: Give UN Fact-Finding Mission a Chance", Amnesty International, 4 March 2024.

286 Human Rights Watch, "Q&A: Why Should the Mandate of the Fact-Finding Mission (FFM) For Sudan Be Extended", 28 August 2024.

3.3.2 UN Designated Expert on Human Rights in Sudan

On 8 November 2021, the UN Human Rights Council, mandated the UN High Commissioner for Human Rights to promptly appoint an expert on human rights in Sudan whose responsibilities would include monitoring the human rights situation, engaging with relevant stakeholders, and addressing the needs of victims.²⁸⁷ As of December 2022, this role has been held by Radhouane Nouicer of Tunisia.²⁸⁸ In July 2024, Nouicer visited Port Sudan to assess the situation firsthand, meeting with CSOs and victims. Their insights have been instrumental in shaping his assessments and advocacy efforts. As per his mandate, the UN Designated Expert on human rights in Sudan is required to submit annual reports to the Human Rights Council detailing his findings and recommendations.

While both the UN Designated Expert on human rights in Sudan and the UN Sudan FFM focus on addressing human rights violations in Sudan, their mandates serve distinct yet complementary purposes. The UN Designated Expert on human rights in Sudan has a broader and ongoing mandate – which is due to conclude upon the restoration of Sudan’s civilian-led Government²⁸⁹ – as he is responsible for long-term monitoring, engagement with civil society, victims and authorities, and sustained advocacy. While he plays a crucial role in promoting accountability beyond the UN Sudan FFM’s lifespan, the UN Designated Expert on human rights in Sudan does not undertake investigations or collection and preservation of evidence.

Both the UN Designated Expert on Sudan and the FFM Sudan work in coordination with the Office of the High Commissioner for Human Rights in Sudan (OHCHR Sudan), which is mandated to monitor and report on the human rights situation in Sudan. OHCHR Sudan also focuses on key areas such as the rule of law, accountability, civic space and gender. To maximise their impact, these UN human rights mechanisms must operate in a well-coordinated and complementary manner, ensuring a cohesive approach to monitoring, investigation, and accountability efforts.

287 UN Human Rights Council, *Resolution adopted by the Human Rights Council on 5 November 2021 on the Situation of human rights in the Sudan*, UN Doc. A/HRC/RES/S-32/1, 8 November 2021, para. 15.

288 OHCHR Media Centre, “UN Human Rights Chief designates Radhouane Nouicer as expert on the situation of human rights in Sudan”, 16 December 2022.

289 UN Human Rights Council, *Resolution adopted by the Human Rights Council on 5 November 2021 on the Situation of human rights in the Sudan*, UN Doc. A/HRC/RES/S-32/1, 8 November 2021, para. 17.

3.3.3 UN Security Council and targeted sanctions

The UNSC has been involved in Sudan since 2004, when it adopted Resolution 1564 (2004), addressing the conflict in Darfur and calling for the establishment of an International Commission of Inquiry on Darfur.²⁹⁰ Throughout the years, the UNSC has sought to address the humanitarian crisis, support peace agreements, and promote accountability for atrocities committed by both state and non-state actors in Sudan. It has taken several measures, including passing over 70 resolutions²⁹¹ and establishing four major peacekeeping missions – the United Nations Mission in Sudan (UNMIS), the African Union/United Nations Hybrid Operation in Darfur (UNAMID), the United Nations Interim Security Force for Abyei (UNISFA), and the United Nations Integrated Transition Assistance Mission in the Sudan (UNITAMS). UNITAMS was the latest to be shut down on 4 December 2023, following a request from the Sudanese authorities, who determined that the mission no longer served the needs of the Sudanese people.²⁹² Both UNAMID and UNITAMS included a human rights component, tasked with monitoring and reporting on the human rights situation in Darfur and across Sudan. Information collected during their missions may also serve as evidence for future justice efforts.

Another critical tool used by the UNSC in response to the ongoing crisis in Sudan is the imposition of targeted sanctions, aimed at pressuring individuals and entities responsible for fuelling instability, obstructing peace efforts, and perpetrating grave human rights violations.²⁹³ In 2004, the UNSC, through Resolution 1556, imposed an arms embargo aimed at preventing the flow of arms and related materiel to non-governmental entities and individuals, including the Janjaweed, operating in the war-torn Darfur region.²⁹⁴ Under Resolution 1591 (2005), the UNSC expanded this embargo to all parties to the N'Djamena Ceasefire Agreement. Resolution 1591 (2005) also created a Committee to designate individuals subject to sanctions for violations of international humanitarian law, human rights law or other atrocities and to monitor implementation. Such sanctions could include a travel ban and an asset freeze.²⁹⁵ These resolutions, along with others adopted in subsequent years, continue to apply to the current situation in Darfur.²⁹⁶ More recently, in November 2024, two RSF generals were sanctioned by the UNSC for “engaging in actions or policies that threaten the peace, security, or stability of Darfur, including acts of violence and human rights abuses.”²⁹⁷

Resolution 1591 (2005) further required the Sudan Sanctions Committee to appoint a Panel of Experts (PoE) to monitor compliance and provide recommendations.²⁹⁸ The PoE's mandate has been renewed on an annual basis. It conducts investigations on various issues, including

290 UNSC, *Resolution 1564 (2004): The situation in Sudan*, UN Doc. S/RES/1564, 18 September 2004.

291 Security Council Report, *UN Security Council Resolutions on Sudan*.

292 UN, “Security Council Terminates Mandate of UN Transition Mission in Sudan, Adopting Resolution 2715 (2023) in Vote of 14 in Favour to 1 Abstention”, 1 December 2023.

293 Security Council Report, *UN Sanctions*, 25 November 2013.

294 UNSC, *Resolution 1556*, UN Doc. S/RES/1556, 30 July 2004, paras. 7-8.

295 UNSC, *Resolution 1591*, UN Doc. S/RES/1591, 29 March 2005, paras. 3(c), 3(d), 3(e), 7.

296 UN, “Security Council Extends Sanctions Regime against Sudan, Unanimously Adopting Resolution 2750”, 11 September 2024; UN FFM on Sudan, *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*, UN Doc. A/HRC/57/CRP.6, 23 October 2024, paras. 44-5.

297 UN, “Security Council 1591 Sanctions Committee Adds Two Entries to Its Sanctions List”, 8 November 2024; UNSC, Osman Mohamed Hamid Mohamed, 8 November 2024; UNSC, Abdel Rahman Juma Barkalla, 8 November 2024.

298 UN, “Security Council Extends Sanctions Regime against Sudan, Unanimously Adopting Resolution 2750”, 11 September 2024.

international humanitarian law, armed groups, arms trafficking, finance and regional dynamics, compiling its findings into reports submitted to the UNSC. These findings can serve as important leads for accountability efforts.

The most recent renewal, approved by a vote on 17 February 2025, extends the PoE's work until 12 March 2026.²⁹⁹ However, negotiations surrounding this decision proved contentious, with China and Russia – who both abstained in the vote – advocating a shorter extension. Their stance aligns with Sudan's request to limit international scrutiny, citing concerns over sovereignty and the sanctions' impact on national stability.³⁰⁰ Sudan has historically delayed or denied visas to PoE members, further obstructing their ability to conduct on-the-ground investigations.³⁰¹

Despite the continued enforcement of sanctions, their actual impact on accountability remains questionable. The PoE's 2023 report highlighted ongoing violations, including breaches of the arms embargo, the proliferation of weapons, and recruitment of fighters by warring factions.³⁰² The report also underscored how economic networks sustain armed groups, allowing them to circumvent financial restrictions.³⁰³

Addressing these financial loopholes may require a more holistic approach. One of the main criticisms of the UNSC's sanctions regime is its narrow focus on military leaders and government officials and their allies, while ignoring the broader economic and political networks that sustain Sudan's war economy.³⁰⁴ Expanding sanctions to cover foreign enablers – including gold traders, financial intermediaries, and front companies involved in resource smuggling – would significantly enhance their impact. Such measures would make it more difficult for sanctioned individuals to access funding, disrupting the financial foundations of RSF, SAF, and allied militias. Expanding sanctions beyond Darfur to cover the entire country, given the widespread nature of the current conflict, would also contribute to a more comprehensive impact. However, once again, such an approach faces significant obstacles within the UNSC, due to differing positions among Member States.

The role of regional actors in undermining sanctions enforcement cannot be overlooked. The UAE, in particular, has been accused of providing a financial and logistical hub for Sudanese generals and their proxies, allowing them to bypass restrictions.³⁰⁵ The UNSC, in coordination with allies like the US and the EU, should increase diplomatic pressure on the UAE to curb its role in sanctions evasion. If necessary, targeted sanctions on UAE-based entities or individuals that continue to facilitate Sudanese war efforts should be considered. A more coordinated international approach – combining public diplomatic pressure with financial penalties – would be essential to close these loopholes.

Finally, regional cooperation must be strengthened to ensure that Sudan's neighbours do not serve as alternative channels for arms and resources. Countries such as Chad, Libya, and Egypt have played a role in sustaining Sudanese armed groups through cross-border support.³⁰⁶ The UNSC, in collaboration with the AU, should consider establishing a regional enforcement

299 UNSC, [Resolution 2772](#), UN Doc. S/RES/2772, 17 February 2025.

300 UNSC, [“Security Council renews Sudan sanctions panel for one year, adopting Resolution 2772 \(2025\) by 13 votes in favour, 2 abstentions”](#), 17 February 2025.

301 Security Council Report, [“Sudan Sanctions: Vote on a Draft Resolution”](#), 15 February 2025.

302 UNSC, [“Security Council Extends Sanctions Regime against Sudan, Unanimously Adopting Resolution 2750”](#), 11 September 2024; UNSC, *Final Report of the Panel of Experts on the Sudan Sanctions Committee addressed to the President of the Security Council*, UN Doc. S/2024/65, 15 January 2024 (submitted to the UNSC on 22 December 2023).

303 UNSC, *Final Report of the Panel of Experts on the Sudan Sanctions Committee addressed to the President of the Security Council*, UN Doc. S/2024/65, 15 January 2024.

304 Amnesty International, [New weapons fuelling the Sudan conflict](#), 25 July 2024.

305 Jeremy Konyndyk, [“UAE Must Stop Fueling Sudan Atrocities”](#), Refugees International, 22 September 2024; Oscar Rickett, [“How the UAE kept the Sudan war raging”](#), *Middle East Eye*, 25 January 2024.

306 Mark Herbert, [“Sudan, Chad and Libya knit together as illicit markets enable conflict economy”](#), ENACT Observer, 17 December 2024.

framework that incentivises Sudan's neighbours to comply with sanctions. This could include stricter border controls, regional monitoring missions, naval patrols around key transit hubs such as Port Sudan and the Libyan border, and intelligence-sharing. Without regional buy-in, the effectiveness of sanctions will remain limited.

Ultimately, while UNSC sanctions serve as an important tool in the pursuit of justice and accountability, their practical impact has been inconsistent. Without stronger enforcement, regional cooperation, and a broader strategy to dismantle the financial and military support networks sustaining armed actors, sanctions alone may not be sufficient to hold perpetrators accountable in Sudan.³⁰⁷

307 Security Council Report, [“Sudan Sanctions: Vote on a Draft Resolution”](#), 15 February 2025.

4

Third State Accountability Mechanisms

4.1 Universal Jurisdiction

The legal principle of universal jurisdiction allows or requires states to bring criminal proceedings for international crimes within their domestic legal systems, regardless of the location of the crimes or the nationality of the perpetrator and victim. Thus, the basis for universal jurisdiction does not rest on a particular nexus with the investigating or prosecuting state, but rather on the premise that certain crimes are so heinous that every state has a legitimate interest in exercising jurisdiction to combat them.³⁰⁸

States may decide to incorporate the principle of universal jurisdiction for international crimes, such as war crimes, crimes against humanity, and genocide, into their domestic legislation. Concurrently, certain international treaties and conventions oblige state parties to assert universal jurisdiction, for example in relation to the crime of torture when the state does not extradite the suspect present in its territory.³⁰⁹ Most states globally have adopted legislation implementing universal jurisdiction.³¹⁰

Universal jurisdiction in third states provides an avenue for victims of international crimes committed in Sudan to pursue justice. Although most victims interviewed were initially unfamiliar with this mechanism, they expressed support for its application once it was explained to them.³¹¹ In addition, most CSOs interviewed recognised universal jurisdiction as a possibility for seeking accountability for crimes committed in Sudan.³¹² However, they also emphasised its significant practical and political challenges, highlighting the extensive groundwork and resources required to pursue such cases.³¹³ One interviewee described universal jurisdiction in Sudan as so far proving to be “more a conceptual avenue than it is practical”, though it still holds potential for more effective leverage by CSOs.³¹⁴ Others consider it to be the most realistic avenue or even “only avenue” to achieve justice for Sudan.³¹⁵

308 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, pp. 3, 8.

309 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, Art. 7(1); Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, pp. 9-13.

310 In 2012, Amnesty International concluded that 147 out of 193 UN Member States provided for universal jurisdiction. At least 37 out of 54 African states had by then universal jurisdiction provisions in their domestic legislation. See Amnesty International, *Universal Jurisdiction: A Preliminary Survey of Legislation Around the World – 2012 Update*, October 2012, p. 2.

311 Interview with Victim 3; Interview with Victim 5; Group interview with 5 CRSV victims (Group 1, Adre, June 2024).

312 Interview with Expert 4 (August 2024); Interview with Expert 9 (August 2024); Interview with Abdel Salam Sidahmed, Chairperson of the Sudanese Human Rights Monitor (July 2024); Interview with Samier Makeen, human rights lawyer (July 2024); Interview with Expert 8 (July 2024); Interview with international criminal lawyer, Wayamo Foundation (July 2024); Interview with Jehanne Henry, independent human rights lawyer and Sudan specialist; Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

313 Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024); Interview with Expert 9 (August 2024); Interview with Abdel Salam Sidahmed, Chairperson of the Sudanese Human Rights Monitor (July 2024); Interview with Samier Makeen, human rights lawyer (July 2024); Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

314 Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024).

315 Interview with Expert 4 (August 2024).

As a justice mechanism, the potential of universal jurisdiction lies in its ability to address the shortcomings of domestic and international accountability mechanisms identified in this report. In this context, universal jurisdiction presents itself as a viable and complementary justice path to existing avenues for accountability, particularly the ICC.³¹⁶ Universal jurisdiction cases can also serve broader accountability purposes, such as supporting advocacy efforts or contributing to the imposition of sanctions on alleged perpetrators of international crimes in Sudan.

To date, while the use of universal jurisdiction in the global fight against impunity for international crimes continues to increase,³¹⁷ there is a scarcity of extraterritorial cases related to human rights violations and international crimes committed in Sudan. At least two Sudan-related cases based on universal jurisdiction have been opened, including one concerning alleged international crimes committed in Darfur. Both cases were triggered by concerted civil society efforts, including Sudanese victims and NGOs. In 2020, national authorities in France opened a criminal investigation,³¹⁸ which remains ongoing, into the alleged complicity of the French bank BNP Paribas in crimes committed by the Sudanese government between 2002 and 2008 in Sudan, particularly in Darfur.³¹⁹ In addition, in September 2023, a prominent trial against two former Swiss and Swedish executives of the Swedish oil company Lundin began in Stockholm, Sweden. The suspects are charged with complicity in war crimes committed by the Sudanese army and allied militias in Sudan, now South Sudan, between 1999 and 2003.³²⁰

CSOs often play an essential role in advancing universal jurisdiction cases, through their efforts to investigate international crimes.³²¹ Between 2016 and 2021, there was a 44% increase in the number of newly opened cases on international crimes in Europe, largely due the collaboration between prosecuting authorities and CSOs, according to a report by TRIAL International.³²² This trend has continued,³²³ demonstrating the essential role that Sudanese and international NGOs, victim groups, and other civil society actors can play in triggering investigations and cases based on universal jurisdiction in third countries. Moreover, since the use of universal jurisdiction differs widely across states, national NGOs and legal experts familiar with specific domestic justice systems are usually key partners for those seeking justice.³²⁴

The Wayamo Foundation, a German-based non-profit organisation, for example, has been focusing on universal jurisdiction for Sudan, training and building capacity of prosecutorial and judicial authorities in African countries with existing laws on universal jurisdiction. Drawing on the cases concerning Syria in European courts, they have been exploring the feasibility of using universal jurisdiction for Sudan in East African countries, including but not limited to Kenya and Uganda. One expert highlighted the strategic approach to “start small, with low and mid-level perpetrators [...] so that you can build your way up,” noting that trying to target heads of states

316 Wayamo Foundation, *Championing Justice Amidst Conflict: Insights from a Sudanese Human Rights Lawyer*, April 2024; UN Fact-Finding Mission on Sudan, *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*, UN Doc. A/HRC/57/CRP.6, 23 October 2024, p. 2, para. 334.

317 Trial International, FIDH et al., *Universal Jurisdiction Annual Review 2025*, 2025.

318 FIDH, “Judicial Investigation Opened into BNP Paribas’ Role in Atrocities in Sudan”, 11 October 2020.

319 Trial International, FIDH et al., *Universal Jurisdiction Annual Review 2025*, 2025, p. 38.

320 Ibid., p. 83-4.

321 International Center for Transitional Justice, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, December 2020, p. 27.

322 Trial International, *Universal Jurisdiction Annual Review 2023*, 2023, p. 12.

323 Trial International, *Universal Jurisdiction Annual Review 2023*, 2023, pp. 11-3.

324 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, p. 36; The Clooney Foundation for Justice recently launched an online tool that enables victims, survivors, NGOs, and others to track the criminalisation of international crimes in countries worldwide including the conditions for exercising jurisdiction. See *Justice Beyond Borders: A Global Mapping Tool*.

and high-level perpetrators from the outset in cases on the basis of extraterritorial jurisdiction does not work in practice.³²⁵

The extraterritorial cases concerning international crimes that are currently pending are concentrated in a dozen countries heavily located in Europe.³²⁶ Although many African states have domestic legislation incorporating universal jurisdiction for international crimes, only a limited number of cases have been opened based on this basis across the continent.³²⁷ The most prominent extraterritorial case in Africa remains the successful 2016 conviction of former Chadian president Hissène Habré in Senegal, with the backing of the AU.³²⁸ However, observers argue that it remains difficult for African states to successfully exercise universal jurisdiction due to three major challenges: limited resources, lack of political will, and insufficient capacity. To address this, some have suggested that the international community provide financial support to African national authorities to help them effectively pursue universal jurisdiction cases.³²⁹

Access to justice for Sudanese victims through the exercise of universal jurisdiction in third states is not without considerable challenges. In most jurisdictions, prosecutors are not legally obliged to investigate and prosecute based on universal jurisdiction. They may have broad discretion in deciding whether to pursue or decline a case, which may be influenced by foreign policy considerations.³³⁰ Additionally, although universal jurisdiction cases theoretically do not require any connection to the forum state, most states make its exercise conditional on the suspect's physical presence within their territory.³³¹ As a result, cases can only be pursued when a suspect is already in the territory or expected to travel there. This limitation is included in the domestic legislation of many states, including African states such as Kenya, Uganda and South Africa.³³² As a Sudanese expert noted, "Those responsible for international crimes may never visit those countries."³³³ Some states, such as South Africa and Germany, can start investigating suspected perpetrators based on the anticipated presence of the suspect in the country.³³⁴ However, prosecutions *in absentia* are rare and may also carry certain risks, such as compromising the fundamental rights of the accused or being perceived as a political, neo-colonial tool used by Western states.³³⁵

These presence requirements make it crucial that national authorities in foreign jurisdictions proactively monitor the movements of suspects in order to readily arrest them once they enter

325 Interview with Expert 8 (July 2024).

326 Trial International, *Universal Jurisdiction Annual Review 2023*, 2023, p. 10.

327 Trial International, "Universal Jurisdiction Interactive Map", 2025.

328 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, p. 20; Amnesty International, "Hissene Habre verdict: Landmark decision brings justice for tens of thousands of victims", 30 May 2016.

329 Chatham House, *Universal Jurisdiction for International Crimes: Africa's Hope for Justice?*, 10 April 2010.

330 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, p. 13.

331 In some countries, such as Belgium, domestic law also provides for jurisdiction in certain cases based on the presence of the victim; Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, pp. 13-4; Open Society Justice Initiative and Trial International, *Universal Jurisdiction Law and Practice in Belgium*, May 2022, p. 15.

332 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, pp. 13-5.

333 Interview with Moneim Adam, Sudanese lawyer and Programme Director, Sudan Human Rights Hub (July 2024).

334 Constitutional Court of South Africa, *National Commissioner of the South African Police Service v. Southern African Human Rights Litigation Centre and Another*, Case CCT 02/14 (2014); Tim Kluwen, *Universal Jurisdiction in Absentia Before Domestic Courts Prosecuting International Crimes: A Suitable Weapon to Fight Impunity?*, *Goettingen Journal of International Law*, 2017, 8th ed., Vol. 1, pp. 23-4; Open Society Justice Initiative and Trial International, *Universal Jurisdiction: Law and Practice in Germany*, March 2019, p. 17.

335 Tim Kluwen, *Universal Jurisdiction in Absentia Before Domestic Courts Prosecuting International Crimes: A Suitable Weapon to Fight Impunity?*, *Goettingen Journal of International Law*, 2017, 8th ed., Vol. 1, pp. 12, 30, 32-4. However, note that some states allow for *in absentia* trials, like France. See Trial International, *Universal Jurisdiction Annual Review 2024*, 2024, pp. 28-9, 57.

the territory.³³⁶ Other actors, such as NGOs or Sudanese diaspora communities, may also be equipped to alert national authorities when a suspect is present or is anticipated to enter the country.³³⁷

Moreover, the opening of structural investigations can be beneficial. These are not initially focused on specific individuals or incidents.³³⁸ Instead, they allow investigators to gather and preserve evidence to build cases for future criminal proceedings.³³⁹ For example, the landmark convictions of two former Syrian officials, Eyad al-Gharib and Anwar Raslan – who fled to Germany as refugees – were achieved in 2021 and 2022 owing to a structural investigation in Germany that began a decade earlier.³⁴⁰

Other legal, political, and practical challenges can further affect the prospect of universal jurisdiction cases. While the legal framework around immunities evolves continuously, as demonstrated by the positive developments in 2024 in cases concerning Syria before French courts,³⁴¹ immunities may legally bar criminal proceedings against high-ranking state officials. In addition, states may simply lack the political will to initiate legal action.³⁴² One expert noted that whether an arrest or prosecution occurs is often a “deeply political process”, particularly in relation to senior political officials, despite them being among the most implicated in violations and the most likely to travel.³⁴³ Furthermore, domestic justice actors may not have the contextual knowledge necessary to understand the crimes and situation in the country where these crimes occurred. Investigators, prosecutors, and judges may also face language barriers, and victims may experience obstacles to effective participation in criminal proceedings without translation and interpretation. These multiple challenges demonstrate that prosecuting cases under the principle of universal jurisdiction requires considerable capacity and resources, which a state may not have or be willing to deploy if there is no connection with the country.³⁴⁴

Another major challenge for national authorities is obtaining evidence and securing witnesses in relation to crimes committed in a distant country.³⁴⁵ To address this challenge, the FFM Sudan could assist states willing to exercise universal jurisdiction by sharing relevant information, documentation, and evidence gathered over the course of its activities.³⁴⁶ Open-Source Intelligence (OSINT) could also play a crucial role, especially given the difficulty of accessing Sudan. Indeed, several organisations are already conducting OSINT investigations into crimes committed in Sudan.³⁴⁷

336 REDRESS et al., *Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan*, September 2024, p. 12.

337 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, p. 27.

338 REDRESS et al., *Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan*, September 2024, p. 12.

339 Trial International, *Universal Jurisdiction Annual Review 2023*, 2023, p. 10-1.

340 Hannah El-Hitami, *They Felt Too Safe: How Two Syrian Agents Ended Up on Trial in Germany*, JusticeInfo.net, 4 May 2020; Trial International, *Universal Jurisdiction Annual Review 2023*, 2023, p. 10.

341 Trial International, FIDH et al., *Universal Jurisdiction Annual Review 2025*, 2025, p. 10, p. 34-5, p. 37.

342 Alexandre Skander Galand, *Victims' Right to Justice, Immunities and New Avenues for International Criminal Justice*, 25 International Community Law Review 2 (2023), pp. 192-3, 203-4.

343 Interview with Caitlan Lloyd, Legal Officer at REDRESS (August 2024).

344 Mais Masadeh, *One Court at a Time: Challenges of Universal Jurisdiction and Enhancing International Justice*, Völkerrechtsblog, 24 January 2022.

345 Trial International, *Evidentiary Challenges in Universal Jurisdiction Cases*, 2019, pp. 8-10.

346 The UN Fact-Finding Mission's mandate requires it “[t]o collect, consolidate and analyse evidence [...] and preserve all information, documentation and evidence, including interviews, witness testimony and forensic material, consistent with international best practice, in view of any future legal proceedings”, and “[t]o identify, where possible, those individuals and entities responsible [...] with a view to ensuring that those responsible are held accountable”. UN Human Rights Council, “Resolution adopted by the Human Rights Council responding to the human rights and humanitarian crisis caused by the ongoing armed conflict in the Sudan”, UN Doc. A/HRC/RES/54/2 (12 October 2023), para. 18(b), (d), (h); REDRESS et al., *Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan*, September 2024, pp. 10-1, 52-3.

347 See Sudanese Archive by Mnemonic, “Who we are”; Centre for Information and Resilience, “Sudan Witness”; Sudan Shahid, “Sudan Shahid Map” (last updated 21 March 2025).

Cooperation between states is often required to ensure successful prosecutions, including extradition of suspects and the collection of evidence. However, securing such cooperation can be a major challenge.³⁴⁸ The European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (“Genocide Network”) was established in 2002³⁴⁹ with the purpose of enabling such close cooperation between national authorities of EU Member States when investigating and prosecuting international crimes. The Network “provides a platform for practitioners to exchange operational information and share experience and best practice through biannual meetings”, hosted by Eurojust, in which a limited number of NGOs, including FIDH, can participate as observers.³⁵⁰ An advanced tool for states seeking to accelerate cooperation on Sudan-related cases is the establishment of so-called joint investigation teams (JITs), which can be set up by two or more states with the support of Eurojust.³⁵¹ This tool facilitates close cooperation between national authorities in complex criminal investigations, with financial, legal, and practical support provided by Eurojust. JITs can also be used by European Union (EU) Member States as a cooperation framework with non-EU states.³⁵² For example, a JIT investigating alleged international crimes committed in Ukraine was set up with the participation of several states, including Ukraine, Lithuania, and Poland, the ICC, and Europol, along with a Memorandum of Understanding with the United States.³⁵³ A similar initiative could be launched for Sudan-related international crimes, but it would require significant political will to move forward.

348 Howard Varney and Katarzyna Zduńczyk, *Advancing Global Accountability: The Role of Universal Jurisdiction in Prosecuting International Crimes*, International Center for Transitional Justice, December 2020, p. 36.

349 See [EU Council Decision of 13 June 2002](#) setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes.

350 Eurojust, “Genocide Network”.

351 REDRESS et al., *Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan*, September 2024, p. 12.

352 Eurojust, “Joint Investigation Teams”, 2025.

353 Eurojust, “Joint Investigation Team into Alleged Crimes Committed in Ukraine”.

4.2 Magnitsky sanctions

Magnitsky-style sanctions,³⁵⁴ a relatively recent tool in the foreign policy toolbox of various jurisdictions, stands out from the plethora of other sanctions regimes because of its potential to promote accountability for perpetrators of human rights abuses. These sanctions apply irrespective of the suspects' location, especially in cases where impunity prevails.³⁵⁵ Importantly, they are not confined to state actors, nor do they target entire countries.³⁵⁶

Since 2016, several jurisdictions have instituted Magnitsky-style sanctions regimes, including the United States (US),³⁵⁷ Canada,³⁵⁸ the United Kingdom (UK),³⁵⁹ Australia,³⁶⁰ and the EU.³⁶¹ These novel regimes have been used to sanction a wide range of individuals and entities involved in serious human rights abuses, such as extrajudicial killings, torture and ill-treatment, arbitrary detention and corruption.³⁶² Targets have ranged from low-level perpetrators to high-ranking officials including heads of state, military commanders, and militia leaders.³⁶³ Enablers of abuses, such as companies located within or outside the country where the abuses took or are taking place, can also be targeted.³⁶⁴ Sanctioned individuals and entities can have their visas denied, due to a travel ban imposed by the sanctioning jurisdiction. Their assets can also be frozen, and they can be rendered unable to transact with individuals or entities within that jurisdiction.³⁶⁵

Sanctions are not a new development in the Sudanese context. As previously noted, the UNSC has adopted several resolutions imposing sanctions in response to the situation in Darfur, including an arms embargo, a travel ban, and asset freezes on individuals designated by the Sudan Sanction Committee.

Since the outbreak of the current armed conflict in 2023, several jurisdictions – including the EU, the US, the UK, and Canada – have imposed targeted sanctions related to Sudan. These measures have been implemented primarily through sanctions regimes specifically designed for Sudan or other regulatory frameworks implementing UN and autonomous sanctions. For example, in May 2023, US President Biden issued Executive Order 14098 “Imposing Sanctions on Certain Persons Destabilizing Sudan and Undermining the Goal of a Democratic Transition”, authorising the imposition of sanctions in response to the outbreak of fighting in Sudan in April 2023, among other circumstances.³⁶⁶ Under this framework, the US has sanctioned several

354 The sanctions are named after Sergei Magnitsky, a Ukrainian-born lawyer who died in a Russian prison after exposing corruption by Russian government officials. Magnitsky-style sanctions can target individuals and entities, such as companies or armed groups, for serious human rights abuses or corruption anywhere in the world.

355 Open Society Foundations, *A Global Forcefield of Accountability*, 9 December 2022; REDRESS et al., *Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis*, November 2023, pp. 5-6.

356 Martin Russell, *Global Human Rights Sanctions – Mapping Magnitsky Laws: The US, Canadian, UK and EU Approach*, November 2021, pp. 1-3; Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, pp. 4, 52.

357 US Department of State, “The Global Magnitsky Sanctions Program” (latest report 2023).

358 Government of Canada, “Justice for Victims of Corrupt Foreign Officials Act” (2023).

359 UK Parliament, “Magnitsky Legislation”, 20 July 2020.

360 Australian Government, “Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021”, 8 December 2021.

361 European Council, Council of the EU, “EU adopts a global human rights sanctions regime”, 7 December 2020.

362 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, pp. 56-8.

363 See, for example, the annual reports on US action under the Global Magnitsky sanctions program; US Department of State, “The Global Magnitsky Sanctions Program” (latest report 2023); European Commission, “EU Sanctions Map”, 2025; REDRESS, “UK Targeted Sanctions Quarterly Update”, 6 November 2024.

364 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, pp. 31-5, 47.

365 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 4; Open Society Foundations, *A Global Forcefield of Accountability*, 9 December 2022.

366 US Office of Foreign Assets Control, “Sudan and Darfur Sanctions”, US Department of the Treasury (last updated May 2023).

actors, including RSF commanders,³⁶⁷ and most recently, in January 2025, both al-Burhan and Hemedti,³⁶⁸ at the urging of US lawmakers.³⁶⁹ Likewise, in January 2024, the EU imposed sanctions under its Sudan regime on six companies belonging or affiliated to the SAF and the RSF for “supporting activities undermining the stability and political transition of Sudan”.³⁷⁰ Later that year, the EU approved additional sanctions against six individuals affiliated with both warring parties.³⁷¹ Similarly, the UK imposed targeted sanctions in July 2023 on companies linked to the SAF and the RSF under the Sudan (Sanctions) (EU Exit) Regulations 2020.³⁷² Consistent with sanctions applied by the EU, the UK and the US, Canada imposed sanctions on individuals and entities associated with the two main warring parties. However, it relied on the Special Economic Measures Act rather than its Sergei Magnitsky Law.³⁷³ Country-specific regimes, such as those established by certain jurisdictions for Sudan, differ from Magnitsky-style regimes mainly because they are geographically limited to a particular country and may have different or broader goals than addressing human rights abuses.³⁷⁴ Jurisdictions may use both country-specific and Magnitsky-style regimes to address the situation in Sudan or may prioritise the application of one over the other.³⁷⁵

Magnitsky-style sanctions provide a potential avenue for accountability for Sudanese victims. They offer a flexible and impactful tool able to target a range of actors involved in atrocities in Sudan, regardless of whether they are state or non-state actors, their level of seniority, or their geographical location. They can help expose perpetrators as they openly name individuals and entities allegedly involved in serious human rights abuses, contributing to the creation of a public record of their wrongdoings. One expert stated that while she views sanctions as ineffective in changing behaviours, “it at least helps to publicise people’s names”.³⁷⁶ Coordination between jurisdictions – so-called multilateral sanctions – can further enhance the effectiveness of sanctions, amplifying the condemnation of targeted perpetrators and their abuses.³⁷⁷ To ensure sanctions fulfil an accountability function for victims, it is crucial that sanctioning jurisdictions

367 See, for example, US Department of the Treasury, “Treasury Sanctions Military-Affiliated Companies Fueling Both Sides of the Conflict in Sudan”, 1 June 2023; US Department of State, “Actions Against Senior Rapid Support Forces Commanders in Sudan”, 6 September 2023; US Department of the Treasury, “Treasury Sanctions Sudanese Rapid Support Forces Commanders Expanding War”, 15 May 2024; US Department of the Treasury, “Treasury Sanctions Sudanese Armed Forces Weapons Procurement Director”, 24 October 2024; US Department of the Treasury, “Treasury Sanctions Sudanese Commander Involved in Human Rights Abuses in West Darfur”, 12 November 2024. The US also sanctioned former government officials under the al-Bashir regime, see US Department of the Treasury, “Treasury Targets Sudanese Actors for Undermining Peace, Security, and Stability in Sudan”, 4 December 2023.

368 US Department of the Treasury, “Treasury Sanctions Sudanese Paramilitary Leader, Weapons Supplier, and Related Companies”, 7 January 2025; US Department of the Treasury, “Treasury Sanctions Leader of Sudanese Armed Forces and Weapons Supplier”, 16 January 2025.

369 US Foreign Relations Committee, “Risch, Cardin, McCaul, Meeks Request Determination of Human Rights Abuses Committed by Sudan’s RSF”, 19 April 2024; *Al Jazeera*, “US Senators Call on Biden to Sanction Sudan’s RSF over Human Rights Abuses”, 20 April 2024.

370 Council of the European Union, Regulation (EU) 2024/384 of 22 January 2024 implementing Regulation (EU) 2023/2147 concerning restrictive measures in view of activities undermining the stability and political transition of Sudan, 22 January 2024.

371 European Council and Council of the EU, “Sudan: EU Sanctions Regime Prolonged for a Further Year”, 8 October 2024. For a full overview of EU sanctions related to Sudan, see European Commission, “EU Sanctions Tracker” (last updated February 2025).

372 UK Parliament, “Sudan: Sanctions on Entities Linked to SAF and RSF”, 12 July 2023; UK Anti-Corruption Coalition and REDRESS, “UK Targeted Sanctions Quarterly Update”, 1 September 2023, pp. 1-3. See also REDRESS, “UK Targeted Sanctions Quarterly Update”, 31 May 2024, p. 5; UK Government, “UK Sanctions Relating to Sudan” (last updated December 2020).

373 Government of Canada, “Minister Joly Announces Sanctions in Response to Ongoing Conflict in Sudan”, 15 April 2024; Government of Canada, “Canadian Sanctions Related to Sudan” (last regulations amended 6 February 2025); For more background on Canada’s sanctions architecture and the overlap between these laws, see Senate Standing Committee on Foreign Affairs and International Trade, *Strengthening Canada’s Autonomous Sanctions Architecture: Five-Year Legislative Review of the Sergei Magnitsky Law and the Special Economic Measures Act*, Senate Canada, May 2023, pp. 22-4.

374 Martin Russell, *Global Human Rights Sanctions – Mapping Magnitsky Laws: The US, Canadian, UK and EU Approach*, November 2021, p. 2; Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 52.

375 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 10.

376 Interview with Jehanne Henry, independent human rights lawyer and Sudan specialist.

377 All-Parliamentary Group on Magnitsky Sanctions and REDRESS, *Fact Sheet: The UK’s Use of Coordinated Magnitsky Sanctions*, November 2022, p. 1; Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, pp. 4, 16; REDRESS et al., *Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis*, November 2023, p. 8.

publicly recognise these individuals, including marginalised and vulnerable victim groups that may have been previously overlooked.³⁷⁸

Magnitsky-style sanctions can complement the measures implemented under the UN's Sudan sanctions regime. Magnitsky sanctions present the added advantage of being able to bypass political or procedural constraints within the UNSC, such as vetoes by major powers. This provides states with greater flexibility to adopt sanctions in the absence of international consensus, with the possibility of strengthening their responses to human rights violations by coordinating them with other jurisdictions.³⁷⁹

Although Magnitsky-style sanctions can have a far-reaching impact on those targeted, as described above, they are primarily preventive and deterrent rather than punitive in nature.³⁸⁰ While they can function as a tool for interim accountability, they cannot substitute the pursuit of justice through mechanisms such as prosecutions or redress.³⁸¹ Instead, these measures should be devised as part of a broader strategy. From this perspective, sanctions can *prima facie* identify specific individuals or entities to be held accountable for violations of international law, which may amount to international crimes.³⁸² Jurisdictions uniting to impose Magnitsky-style sanctions on the same person or entity can further help build pressure to advance justice action for victims, for example at the domestic level in Sudan.³⁸³ At the same time, the evidence underlying a sanction designation may of itself provide sufficient ground for a foreign jurisdiction to initiate a criminal investigation, for example based on universal jurisdiction.³⁸⁴

Some NGOs have suggested that the proceeds from assets of sanctioned actors could be used to finance reparations in Sudan.³⁸⁵ Likewise, the fines imposed on actors for breaching sanctions could be repurposed to provide reparations.³⁸⁶ Alongside their contribution to redress, these measures could fulfil preventative and corrective functions by targeting the nexus between conflict and abuses, on the one hand, and international trade and financial relationships, on the other.³⁸⁷ However, repurposing confiscated assets can raise legality concerns, including surrounding possible violations of due process and property rights. The redistribution of fines for sanctions breaches may instead be a more viable way to fund reparations, with fewer legal obstacles involved.³⁸⁸

While these measures have the potential to contribute to justice and accountability, they can create unintended consequences. They may hamper international cooperation in criminal matters, particularly if they are perceived as being misused for political interests unrelated

378 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 43; REDRESS et al., *Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis*, November 2023, pp. 6-7, 12.

379 Martin Russell, *Global Human Rights Sanctions – Mapping Magnitsky Laws: The US, Canadian, UK and EU Approach*, November 2021, p. 3.

380 The use of sanctions as an administrative rather than criminal mechanism to circumvent certain fundamental standards of criminal law, such as the presumption of innocence and fair trial guarantees, raises significant human rights concerns. See UN General Assembly, *Access to Justice in the Face of Unilateral Sanctions and Overcompliance: Note by the Secretary-General*, UN Doc. A/79/183, 18 July 2024.

381 REDRESS et al., *Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis*, November 2023, p. 5.

382 *Idem*, p. 6.

383 Several Magnitsky regimes include prosecution for the abusive conduct underlying the sanction as a ground for delisting the targeted individual. Victoria Kerr and James Patrick Sexton, *Human Rights and Security: Unpacking the Elusive Nature of Magnitsky Sanctions*, September 2022, p. 11; Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 13; Open Society Foundations, *A Global Forcefield of Accountability*, 9 December 2022; REDRESS et al., *Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis*, November 2023, pp. 7, 10.

384 REDRESS et al., *Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis*, November 2023, p. 8.

385 REDRESS et al., *Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan*, September 2024, p. 11.

386 *Idem*.

387 UN General Assembly, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence: Financing of Reparation for Victims of Serious Violations of Human Rights and Humanitarian Law*, UN Doc. A/78/181, 14 July 2023, para. 73.

388 *Ibid.*, paras. 72, 74; REDRESS, *Innovative Avenues to Finance Reparation in the UK*, January 2024, p. 7.

to human rights. Such perceptions may affect the willingness of national authorities to exchange information or comply with extradition requests from the sanctioning jurisdiction.³⁸⁹ Additionally, it is important to balance the interests at stake in view of the objective sought, as sanctions may obstruct other justice and accountability strategies. For example, a travel ban imposed on a specific person would prevent them from travelling to specific jurisdictions. This, in turn, could reduce opportunities to invoke universal jurisdiction in those jurisdictions, especially where there is a presence requirement.

An important feature of several Magnitsky-style regimes is that civil society can play a proactive role in calling for sanctions for Sudan-related human rights abuses. NGOs have, for example, urged the UK and Canadian governments to apply Magnitsky-style sanctions against Sudan coup leaders and those involved in the most recent conflict of 2023.³⁹⁰ This aspect is significant, as approximately one third of the Magnitsky sanctions issued by the US in the first five years of the regime's implementation were based on civil society recommendations.³⁹¹ As noted by Open Society Foundations, the role of civil society should not be underestimated: "The use of Global Magnitsky sanctions by CSOs has become one of the most consequential policy measures for addressing serious human rights violations."³⁹² Even when CSO submissions are unsuccessful, they can be a strong advocacy tool to increase awareness about events in Sudan and the need for accountability.³⁹³

Magnitsky-style sanctions not only complement but can also address gaps in existing frameworks. For example, they can be applied when Sudan-specific sanctions regimes do not include human rights criteria or when a jurisdiction lacks such a regime altogether.³⁹⁴ Establishing a country-specific regime can be a lengthy and, at times, diplomatically or politically challenging process.³⁹⁵ It can therefore be advantageous for a state to rely on an already existing Magnitsky framework to respond quickly to new developments.³⁹⁶ For example, Estonia could invoke its Magnitsky provisions as the country does not appear to have an autonomous regime for Sudan.³⁹⁷

389 UN General Assembly, *Access to Justice in the Face of Unilateral Sanctions and Overcompliance: Note by the Secretary-General*, UN Doc. A/79/183 (18 July 2024), para. 55; See also Victoria Kerr and James Patrick Sexton, *Human Rights and Security: Unpacking the Elusive Nature of Magnitsky Sanctions*, September 2022, pp. 11-2.

390 International Bar Association, "IBAHRI Urges UK Government to Apply Magnitsky Sanctions against Sudan Coup Leaders", 14 June 2022; Raoul Wallenberg Centre for Human Rights, "Canada Sanctions Six Sudanese Individuals and Entities Following RWCHR Submission", 15 April 2024.

391 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, pp. 8, 10.

392 Open Society Foundations, *The European Union's Use of Global Human Rights Sanctions in 2023*, December 2023, pp. 4-5.

393 Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 5; REDRESS, "Magnitsky Sanctions" (as of 2023).

394 Michael A. Weber, *The Global Magnitsky Human Rights Accountability Act: Scope, Implementation, and Considerations for Congress*, 3 December 2021, p. 18; Human Rights First et al., *Multilateral Magnitsky Sanctions at Five Years*, November 2022, p. 26; Open Society Foundations, *The European Union's Use of Global Human Rights Sanctions in 2023*, December 2023, p. 2.

395 Michael A. Weber, *The Global Magnitsky Human Rights Accountability Act: Scope, Implementation, and Considerations for Congress*, 3 December 2021, p. 3.

396 Martin Russell, *Global Human Rights Sanctions – Mapping Magnitsky Laws: The US, Canadian, UK and EU Approach*, November 2021, p. 3.

397 Kelly Buchanan et al., *Worldwide Global Magnitsky Act Legislation*, Global Research Directorate, July 2022, pp. 3, 4, 8; Ministry of Foreign Affairs of the Republic of Estonia, "Sanctions of the Government of the Republic of Estonia" (last updated January 2024, accessed 20 February 2025).

Conclusion

The victims of atrocities in Sudan have consistently expressed frustration with the slow, fragmented, and often ineffective pursuit of justice. Their demands for accountability go beyond symbolic prosecutions; they seek a comprehensive and holistic approach to justice that ensures truth, the establishment of individual criminal responsibility of perpetrators, reparations, and guarantees of non-recurrence. Any accountability mechanism that fails to centre the voices and needs of victims risks being inadequate and disconnected from the realities on the ground.

Among the various mechanisms examined in this report, the most relevant and potentially effective include international prosecutions through the ICC, the use of universal jurisdiction by national courts, and targeted sanctions on individuals and entities enabling atrocities. Domestic legal processes, including before a potential Special Criminal Court for Sudan, could play a crucial role in achieving meaningful justice, but they remain largely non-viable given the current armed conflict and lack of judicial independence. In the absence of functioning formal institutions, traditional justice mechanisms like *Judiyya* offer an immediate, community-rooted alternative that – if reformed to meet international standards of fairness, inclusivity, and human rights – could contribute to local accountability and reconciliation. Regional mechanisms, such as the AU and the African Court on Human and Peoples' Rights, hold promise but require significant strengthening and political commitment to be effective.

Documentation efforts are central to any accountability process. The work of bodies such as the UN Sudan Fact-finding Mission and the ACHPR Sudan Fact-finding Mission is critical in providing credible evidence that can be used in legal proceedings. Coordination and collaboration between local and international documentation entities and prosecuting bodies – whether international courts, a potential special court for Sudan, or domestic national bodies applying universal jurisdiction – is essential to ensuring that justice mechanisms are well-informed and effective.

Despite the existence of these complementary mechanisms, accountability efforts for victims from Sudan are unlikely to succeed – or even take off – without political will from both Sudanese authorities and the international community. The absence of domestic political will has allowed impunity to persist, while the lack of sustained international pressure has failed to create meaningful consequences for perpetrators. While victims and civil society continue to document violations and push for justice, their efforts must be supported by coordinated, sustained action from regional and global actors.

As one expert aptly states, “The history of Sudan is the history of impunity.”³⁹⁸ Breaking this cycle requires not only legal accountability but also political commitment, victim-centred justice processes, and a long-term strategy for truth and reconciliation. Until these elements align, justice for Sudan's victims will remain an unfulfilled promise, and atrocities will likely continue unchecked.

398 Interview with Expert 7 (April 2024).

RECOMMENDATIONS

Recommendations

To the Sudanese Authorities:

- **Take active steps to end the ongoing conflict and restore civilian rule** to create the conditions necessary for justice and accountability.
- **Ensure judicial independence and reform domestic legal structures** to remove immunity provisions for security forces, including the 2007 Armed Forces Act, the 2008 Police Act, and the 2010 National Security Act, and eliminate legal barriers to prosecuting international crimes.
- **Ensure victims' right to reparation** by incorporating clear legal provisions for compensation, rehabilitation, and other forms of redress in Sudanese law, addressing the current legal gaps that leave victims without effective remedies.
- **Recognise and support community-based reconciliation initiatives**, such as *Judiyya*, while ensuring that they are adapted to address international crimes, particularly sexual and gender-based violence, and do not undermine formal justice processes.
- **Establish a Truth Commission** to address past atrocities, promote reconciliation, and document violations to provide victims with truth and recognition, and ensure that any amnesty granted is strictly conditional, excluding international crimes.
- **Ratify the Rome Statute and align domestic legislation** with international standards, including the definitions of war crimes, crimes against humanity, genocide, and the crime of aggression.
- **Sign and ratify the Malabo Protocol**, which would enable the African Court of Justice and Human Rights (ACJHR) to prosecute international crimes.
- **Facilitate full cooperation with the ICC**, including by executing arrest warrants issued for suspects of international crimes in Sudan and by granting ICC investigators unimpeded access to the territory of Sudan.
- **Allow the UN Sudan Fact-finding Mission and the ACHPR Sudan Fact-finding Mission unfettered access** to the country to document human rights violations and support accountability efforts.
- **Establish a hybrid or special tribunal** to prosecute perpetrators of international crimes in Sudan, incorporating specialised Sudanese and international judges to enhance legitimacy and effectiveness.

To States:

- **Facilitate full cooperation with the ICC**, including by executing arrest warrants issued for suspects of international crimes in Sudan.
- **Utilise universal jurisdiction** to prosecute perpetrators of core international crimes committed in Sudan, in line with domestic legal frameworks that allow for such prosecutions. European states, in particular, should provide financial and technical assistance to African national authorities to strengthen their ability to investigate and prosecute universal jurisdiction cases.
- **Utilise the International Court of Justice** as a legal avenue for accountability in Sudan, including by seeking provisional measures to address ongoing violations, protect civilians, and uphold international legal obligations.
- **Provide financial and technical support** for Sudanese civil society organisations documenting human rights violations and advocating accountability.
- **Continue supporting and extending** the mandates of the UN Sudan FFM and ACHPR Sudan FFM, while actively engaging with Sudan and its neighbouring countries to ensure unfettered access for these mechanisms.
- Support international justice efforts through **diplomatic pressure and targeted sanctions** on suspects of international crimes in Sudan, ensuring that accountability remains a global priority.
- **Cease support for Sudan's war economy**, including halting financial, logistical, and diplomatic support for entities or countries enabling the conflict, such as those providing safe havens or facilitating sanctions evasion.

To the African Union:

- **Take a more proactive role** in addressing justice and accountability in Sudan, including by strengthening AU-led mediation efforts and integrating accountability into peace negotiations.
- **Activate the AU's early warning system** to better anticipate and prevent future human rights violations.
- **Encourage Sudan to ratify and domesticate Rome Statute provisions** and align its definitions of international crimes with international conventions such as the Genocide Convention.
- **Encourage Sudan to abandon immunity provisions** for security forces and repeal provisions in its criminal law that conflict with international law.

- **Ensure adequate resource allocation** to overcome funding constraints and expedite the deployment of the ACHPR Sudan FFM and increase cooperation with relevant mechanisms, including the UN Sudan FFM and the ICC.
- **Ensure that transitional justice processes** are adequately supported, integrating not only criminal prosecutions, but also truth-seeking mechanisms, reparations programmes, and institutional reforms.
- **Work with the UN to establish a civilian protection mission in Sudan**, particularly in Darfur, to prevent atrocities and safeguard civilians.
- **Support the creation of a special or hybrid court in Sudan**, both politically and financially, if this option is pursued.

To the United Nations Security Council:

- **Urgently expand the arms embargo** to cover all of Sudan, not just Darfur, ensuring the widest possible restriction on weapons supply.
- **Expand the ICC's mandate to cover all crimes committed across Sudan**, enabling ICC investigations beyond Darfur.
- **Strengthen targeted sanctions** against individuals and entities responsible for atrocities in Sudan, while ensuring their effectiveness by addressing financial networks that sustain armed groups.

To the International Criminal Court:

- **Prioritise investigations into the ongoing conflict** and ensure the prosecution of key perpetrators, particularly those responsible for mass atrocities committed in Sudan since April 2023.
- **Ensure integration of the significant continuity and nexus** between international crimes committed in Darfur and those occurring across Sudan since April 2023 into the OTP's prosecutorial strategy to ensure a more comprehensive approach to accountability.
- **Expand outreach and engagement efforts** with Sudanese victims and affected communities, ensuring they are informed of their rights and the role of the Court.
- **Strengthen collaboration with national and regional accountability mechanisms**, providing technical assistance where needed.

- **Engage more meaningfully with international and Sudanese civil society organisations** to enhance information-sharing, documentation efforts, and victim engagement.
- **Increase pressure on Sudanese authorities and ICC States Parties to execute existing arrest warrants**, using diplomatic channels and international advocacy.

To Civil Society Organisations:

- **Continue documenting international crimes and human rights violations** in Sudan, ensuring robust evidence collection for future accountability processes.
- **Share findings and evidence with relevant mechanisms**, including the UN Sudan FFM, ACHPR Sudan FFM, and the ICC, to contribute to ongoing international accountability efforts.
- **Raise victims' awareness of available justice mechanisms**, as many remain under-informed about pathways to accountability.
- **Advocate for sustained international attention and pressure**, ensuring that justice remains a priority amid shifting political landscapes.
- **Support survivor-led justice initiatives**, ensuring victims' voices are central in advocacy and accountability efforts.
- **Engage in awareness campaigns and public discourse** to strengthen domestic demand for accountability and justice reforms.
- **Encourage states to initiate and continue structural investigations** with a view to exercising universal jurisdiction over perpetrators of international crimes.
- **Promote the use and reform of traditional justice mechanisms – such as Judiyya meetings** – where appropriate, to enhance access to justice, support community reconciliation, and address the immediate needs of victims in the absence of functioning formal systems.

Report partner



African Centre For Justice and Peace Studies (ACJPS) is a non-profit, non-governmental organisation (NGO) working to monitor and promote respect for human rights and legal reform in Sudan. It was established in 2009 to address a gap in, and rejuvenate, the human rights movement in Sudan in the wake of forced closures and expulsions of NGOs.

ACJPS is dedicated to creating a Sudan committed to all human rights, the rule of law and peace, in which the rights and freedoms of the individual are honored and where all persons and groups are granted their rights to non-discrimination, equality, and justice.

The organisation runs three mutually reinforcing programmes of work to achieve an improvement in the human rights situation in Sudan:

- i) Human rights monitoring programme to document human rights violations and identify individuals at risk or situations of concern, operating as an early warning mechanism;
 - ii) Legal programme to conduct legal research, protect individuals at risk and conduct strategic litigation in pursuit of effective remedies for victims of human rights violations and legal reform;
 - iii) Advocacy programme to publish and disseminate evidence-based advocacy materials and influence domestic, regional and international policy-makers to improve the human rights situation in Sudan.
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DIRECTOR OF PUBLICATION:

Alice Mogwe

EDITOR:

Éléonore Morel

AUTHORS OF THE REPORT:

Sarah Ben Ammar, Najlaa El Khalifa, Olivia Herman

COORDINATION:

Laura Hamilton, Elise Flecher, Julia Doublait, Danya Chaikel

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FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

17, Passage de la Main d'Or | 75011 Paris | France

T. +33 1 43 55 25 18 E. contact@fidh.org fidh.org

FIDH.ORG