

Darfur's Second Genocide: Breaking the Cycle of Violence and Impunity in Sudan

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*Call it civil war; call it ethnic cleansing; call it genocide; call it 'none of the above'. The reality is the same. There are people in Darfur who desperately need the help of the international community.'*¹

US Secretary of State Colin Powell, 9 September 2004.

Twenty years later, the United States ('US') has declared genocide in Darfur for a second time, with former Secretary of State Anthony Blinken announcing the determination that the Rapid Support Forces ('RSF') have committed genocide in Darfur.² While history is repeated, the scale of the current conflict in Sudan as a whole – which has claimed around 15,000 lives and displaced over 12 million people³ – is unprecedented. It has ravaged a nation that has endured immense turmoil for much of its modern history, from two devastating civil wars, to the secession of South Sudan in 2011, and the genocide committed in Darfur between 2003 and 2005, prompting the Security Council ('UNSC') to refer the situation to the International Criminal Court ('ICC')⁴ and impose an arms embargo – compliance with which continues to be monitored by the Panel of Experts on Sudan⁵ – and the establishment of the International Commission of Inquiry on Darfur⁶ whose findings led to the ICC referral of the situation in Darfur.⁷ The United Nations ('UN')-African Union ('AU') Hybrid Operation in Darfur ('UNAMID'),⁸ the peacekeeping mission deployed in 2007 under UN Charter Chapter VII⁹ with a protection of civilians mandate, prematurely withdrew at the end of 2020 leaving a security and protection vacuum and one of the root causes of the conflict – the desertification of the Sahel and resultant disputes over land and water – unresolved.

The war which began in April 2023 has escalated beyond a simple power struggle. A growing body of evidence implicates both the Sudanese Armed Forces ('SAF') and the RSF in war crimes and crimes against humanity across the country,¹⁰ including killings, arbitrary detention, torture,

enforced disappearance, rape, and sexual and gender-based violence. These are the devastating effects of this war – the culmination of decades of ruthless authoritarian rule punctuated by violent conflicts and atrocities with total impunity – and the historical marginalization of Darfur. The fall of former president Omar al-Bashir in 2019 sparked hopes, but despite the promises of a civilian democratic transition, powerful military elites and armed groups have stymied progress. Fuelled by an influx of weapons in violation of the arms embargo,¹¹ external interference, and the withdrawal of UN peacekeepers in recent years, there is no doubt that this war is also a jarring exposé of the catastrophic failure of the international community to protect civilians.

In a move to address the latest atrocities in Sudan, the UN Human Rights Council ('UNHRC') established the Independent Fact-Finding Mission on Sudan ('FFM Sudan') in October 2023, with a mandate to investigate human rights violations and abuses and violations of international humanitarian law in the context of the current armed conflict.¹²

This brief considers the devastating legacy of impunity in Sudan, explores the fractured efforts at civilian protection, justice and accountability, and provides an overview of the violations committed by both the SAF and the RSF amounting to international crimes. It concludes with recommendations for breaking the cycle of violence and impunity in Sudan.

1. Systematic Atrocities and Impunity

*"We will make you, the Masalit girls, give birth to Arab children".*¹³

Organized sexual violence is being used as a weapon of war; indeed, the sheer scale of sexual violence that has been documented in Sudan is staggering.¹⁴ During her visit to Chad in July, the Special Representative of the Secretary-General on Sexual Violence in Conflict received disturbing reports of ethnically motivated sexual violence against women and girls, rape in front of family members, trafficking for sexual exploitation, and the abduction of women for ransom.¹⁵ Human Rights Watch ('HRW') reported that the RSF committed war crimes against civilians in South Kordofan from De-

¹ "Powell: Violence in Sudan's Darfur Region Constitutes Genocide", *Voice of America*, 9 September 2024.

² Anthony J. Blinken, Secretary of State, "Genocide Determination in Sudan and Imposing Accountability Measures", US Department of State, Press Statement, 7 January 2025 ("US Department of State, 7 January 2025") (<https://www.legal-tools.org/doc/25vpj54t/>).

³ International Rescue Committee, "Fighting in Sudan: What you need to know about the crisis", 18 April 2024.

⁴ ICC, "Darfur, Sudan", ICC-02/05 (the Situation's page is available on the ICC's web site).

⁵ UN Security Council Committee established pursuant to Resolution 1591 (2005) concerning the Sudan, "Work and mandate [of the Panel of Experts on the Sudan]" (available on its web site).

⁶ Resolution 1564 (2004), UN Doc. S/RES/1564 (2004), 18 September 2004 (<https://www.legal-tools.org/doc/1ba770/>).

⁷ Resolution 1593 (2005), UN Doc. S/RES/1593 (2005), 31 March 2005, para. 1 (<https://www.legal-tools.org/doc/4b208f/>).

⁸ UN Peacekeeping, "UNAMID Fact Sheet" (available on its web site).

⁹ UN Peacekeeping, "Mandates and the Legal Basis for Peacekeeping" (available on its web site).

¹⁰ UNHRC, "Sudan: UN Fact-Finding Mission outlines extensive human rights violations, international crimes, urges protection of civilians", Press Release, 6 September 2024.

¹¹ Amnesty International revealed that weapons and ammunition were flowing to Sudan from Turkey, China, Russia, Serbia and the UAE, reaching both the RSF and SAF, and being diverted to Darfur, in violation of the existing arms embargo: Amnesty International, "Sudan: Constant flow of arms fuelling relentless civilian suffering in conflict – new investigation", 25 July 2024. See also Stockholm International Peace Research Institute, "UN arms embargo on Sudan (Darfur region)" (available on its web site).

¹² Resolution 54/2. 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 (<https://www.legal-tools.org/doc/urj2ky/>).

¹³ Kaamil Ahmed, "'We will make you have Arab babies': Fears of genocide amid rape and torture in Sudan's Darfur", *The Guardian*, 3 November 2024.

¹⁴ UNHRC, "Sudan: UN Fact-Finding Mission documents large-scale sexual violence and other human rights violations in newly issued report", Press Release, 29 October 2024.

¹⁵ UN, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, "A war waged on the bodies of women and girls: following visit to Chad, UN Special Representative, Ms. Pramila Patten, calls for the immediate cessation of sexual violence by parties to the conflict in Sudan and urges for funding to support survivors", Press Release, 24 July 2024.

ember 2023 to March 2024, including the rape of women and girls.¹⁶ The FFM Sudan found that the majority of rape and sexual and gender-based violence was committed by the RSF and its allied militias.¹⁷

When government forces launched an air strike in Kabkabiya, North Darfur, on 9 December 2024,¹⁸ killing dozens, Amnesty International declared that “bombing a market full of civilians is one of the clearest examples of a war crime that exists”. The RSF was no better, likely committing war crimes when it killed 38 people in an attack on El Fasher, North Darfur, with four high-explosive missiles on 16 December 2024.¹⁹

Earlier this year, the Panel of Experts, HRW²⁰ and the FFM Sudan²¹ documented disproportionate and indiscriminate attacks on civilians, torture, rape, killing, mass arrests and detentions, forced displacement, pillaging and destruction of critical civilian infrastructure, including humanitarian assets and attacks on personnel, as war crimes.²²

The FFM Sudan and HRW²³ also found reasonable grounds to believe that crimes against humanity were committed by the RSF against the Masalit in El-Geneina, including murder, torture, enslavement, rape, sexual slavery, persecution on ethnic and gender grounds, and forcible displacement,²⁴ while the UN received credible reports about the existence of at least 13 mass graves in El Geneina and its surroundings as a result of the RSF attacks on Masalit.²⁵

In December 2023, the US State Department released an “atrocious determination”, finding that both the SAF and the RSF had committed war crimes and that the RSF and its allied militias had committed ethnic cleansing and crimes against humanity in Darfur.²⁶ A year later, Blinken declared that the RSF and its allies had committed genocide in Sudan.²⁷ The Raoul Wallenberg Centre for Human Rights (‘RWCHR’) had already provided “clear and convincing evidence” in April 2024 that the RSF and its allied militias “have committed and are committing genocide against the Masalit”.²⁸ That the Masalit, Fur, and Zaghawa are indisputably distinct protected ethnic groups under the Genocide Convention was confirmed by the ICC Pre-Trial Chamber in its 2010 arrest warrant against al-Bashir for genocide.²⁹

2. Actors Driving the Violence

Blinken made it clear that the US does not support either side and that US sanctions against RSF First Commander Lt.-Gen. Mohamed Hamdan Dagaló (also known as ‘Hemedti’) and the RSF do not equate to support for the

¹⁶ HRW, “Sudan: War Crimes in South Kordofan”, 10 December 2024.

¹⁷ UNHRC, 29 October 2024, see *supra* note 14.

¹⁸ Amnesty International, “Sudan: SAF airstrike on crowded market a flagrant war crime”, 12 December 2024.

¹⁹ “At least 38 killed in drone attack on Sudan’s el-Fasher: Activists”, *Al Jazeera*, 16 December 2024.

²⁰ HRW, “Sudan: War Crimes in South Kordofan. Civilians Killed, Towns Destroyed in Rapid Support Forces Attacks”, 10 December 2024.

²¹ Report of the Independent International Fact-Finding Mission for the Sudan, UN Doc. A/HRC/57/23, 5 September 2024 (issued on 6 September 2024), para. 91 (‘FFM mandatory report’) (<https://www.legal-tools.org/doc/bmqn99si/>).

²² Final report of the Panel of Experts on the Sudan, UN Doc. S/2024/65, 15 January 2024, para. 56 (‘POE Sudan’) (<https://www.legal-tools.org/doc/an89powa/>).

²³ HRW, “The Massalit Will Not Come Home”: Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan”, 9 May 2024.

²⁴ FFM Mandatory Report, para. 94, see *supra* note 21; 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 (issued on 29 October 2024), para. 293 (‘FFM Conference Room Paper’) (<https://www.legal-tools.org/doc/9tcg9ff5/>).

²⁵ UN Integrated Transition Assistance Mission in the Sudan, “SRSG for Sudan and Head of UNITAMS Volker Perthes remarks to the Security Council”, 13 September 2023.

²⁶ HRW, “Sudan: Action is Key After US Atrocity Determination: Concrete Measures Needed to Curb Widespread Abuses, Protect Civilians”, 11 December 2023.

²⁷ US Department of State, 7 January 2025, see *supra* note 2.

²⁸ RWCHR, “Breaches of the Genocide Convention in Darfur, Sudan: An Independent Inquiry”, 14 April 2024 (‘RWCHR report’) (<https://www.legal-tools.org/doc/ozh4i14n/>).

²⁹ ICC, *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 (<https://www.legal-tools.org/doc/50fbab/>).

SAF.³⁰ The sanctions on Hemedti were followed by sanctions on SAF Commander-in-Chief, Lt.-Gen. Abdel Fattah Al Burhan, on 16 January 2025.³¹ Both belligerents bear responsibility for the atrocities and the humanitarian crisis. At the start of the conflict, RSF and SAF already had substantial financial means in the Sudan and the region. The RSF controlled most of the gold trade in the Sudan and invested large proceeds from this business in several industries, while SAF controlled important economic sectors and companies, mainly in Khartoum.³²

Several armed groups originating from Darfur, including the Justice Equality Movement (‘JEM’) and the Sudan Liberation Movement factions of Minni Minnawi, have formed a Joint Force that fights alongside the SAF against the RSF.³³ A minority of the new SAF-aligned armed groups espouse an Islamist ideology.³⁴

The Sudanese government armed civilians in the early 2000s to combat an insurgency in Darfur and organized these tribes into militias, known as the ‘Janjaweed’, accused of the first genocide in Darfur in the early 2000s. In 2013, in response to a renewed insurgency, the government reorganized elements of the Janjaweed into the RSF under the command of Hemedti. The RSF has been traditionally dominated by Arab ethnic groups from Darfur, especially the Mahariya Rizeigat to which the Hemedti family belongs.³⁵

Arguably, direct UAE support for the RSF has fuelled the genocide.³⁶ The Panel of Experts identified three routes through which the RSF has received weapons from the UAE,³⁷ although it denies having supplied weapons.³⁸ Russia has deepened ties with the SAF, offering military aid in exchange for a naval base at Port Sudan. Egypt, heavily dependent on Nile water security³⁹ and historically aligned with Sudan’s military, cautiously supports the SAF as a counterweight to RSF-aligned actors. The Wagner Group, a Russian mercenary organization, is an active military and commercial partner with the RSF and heavily invested in Sudan’s gold industry.⁴⁰ Turkey, meanwhile, has bolstered the SAF’s air capabilities, while Haftar – a key ally of Egypt, the UAE and Russia – is leveraging Sudan’s instability to expand his own influence.⁴¹

3. Accountability

The ICC has continuing jurisdiction over crimes committed in Darfur since 1 July 2002,⁴² having issued seven arrest warrants. In one case the charges were not confirmed, another was terminated following the death of the suspect, and four others, including al-Bashir,⁴³ who has travelled to several ICC States Parties without being arrested,⁴⁴ remain at large. No one has been convicted, but the first trial, that of Ali Muhammad Ali Abd-Al-Rahman (Ali Kushayb) for 31 counts of war crimes and crimes against humanity, has just concluded.⁴⁵

Since the outbreak of the current conflict, the Office of the Prosecutor

³⁰ US Department of State, 7 January 2025, see *supra* note 2.

³¹ US Department of the Treasury, “Treasury Sanctions Leader of Sudanese Armed Forces and Weapons Supplier”, Press Release, 16 January 2024.

³² POE Sudan, para. 115, see *supra* note 22.

³³ FFM Mandatory Report, paras. 24–26, see *supra* note 21.

³⁴ FFM Conference Room Paper, para. 85, see *supra* note 24.

³⁵ *Ibid.*, para. 101.

³⁶ Oscar Rickett, “How the UAE kept the Sudan war raging”, *African Arguments*, 21 February 2024.

³⁷ Damilola Banjo, “Sudan Steps Up Damning Accusations Against the UAE at the UN”, *PassBlue*, 15 June 2024; see also “Stashes of Emirati weapons found in Sudan’s Wad Madani: Report”, *Middle East Eye*, 12 January 2025.

³⁸ *PassBlue*, 15 June 2024, see *supra* note 37; POE Sudan, para. 42, see *supra* note 22.

³⁹ Omar Digna, “Opinion: Who is profiting from the Sudan war?”, *The Africa Report*, 18 December 2024.

⁴⁰ Alex de Waal, “Sudan is collapsing – here’s how to stop it”, *Chatham House* 21 March 2024.

⁴¹ Emadeddin Badi, “Sudan is caught in a web of external interference. So why is an international response still lacking?”, *MENASource*, Atlantic Council, 17 December 2024.

⁴² ICC, Office of the Prosecutor, “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 (with reference to UNSC Resolution 1593 (2005), see *supra* note 7).

⁴³ ICC, “Darfur, Sudan”, see *supra* note 4.

⁴⁴ These states include South Africa, Jordan, Chad and Kenya.

⁴⁵ ICC, “Abd-Al-Rahman Case” (available on its web site). The closing statements in the trial took place on 11–13 December 2024.

has collected extensive evidence⁴⁶ and has reported significant improvements in co-operation with Sudanese authorities.⁴⁷ No information had been transferred from the RSF to the Office.⁴⁸

In July 2023, the Sudanese authorities established a National Committee of Investigation on Human Rights Violations, War Crimes, and Violations by the Rebel Rapid Support Forces and Other Crimes. According to the Sudanese authorities, as of 18 June 2024, the number of registered criminal cases had reached 12,470, 346 arrest warrants had been issued against RSF members,⁴⁹ and 65 cases had been tried. Only two of these appear to include charges of international crimes.⁵⁰ A second committee was established that included the submission of information on RSF crimes to the ICC.⁵¹

Sudanese law allows for the prosecution of war crimes, crimes against humanity and genocide, although with a 10-year statute of limitations. The categories and definitions employed in the Sudanese legislation are narrower than those of international law. Sudanese law does not provide for liability on the basis of command responsibility and includes extensive immunities for members of the security services.⁵² These shortcomings limit the prospects for domestic accountability.

4. Enhancing Civilian Protection

The FFM Sudan has recommended the deployment of an independent and impartial force with a mandate to protect civilians in Sudan just four years after the last peacekeepers exited late 2020. Two months following the UNSC's termination of UNAMID, amidst violent episodes in Darfur raising the spectre of a return to the catastrophic violence that engulfed the region in 2003, US Senator Robert Menendez, Chairman of the Senate Foreign Relations Committee, sounded the alarm: The "United Nations Security Council's ill-timed and poorly conceived decision to end UNAMID's mandate – facilitated by the Trump administration's lack of a well thought out diplomatic strategy and approach – and rapidly drawdown the mission exposes the Darfuri people to significant harm. It could derail Sudan's civilian-led transition to democracy, resulting in another round of instability Sudan and the broader region can ill afford".⁵³

Unfortunately, he was right. The withdrawal of UNAMID left behind a loss of effective civilian protection and a security vacuum allowing the proliferation of armed groups which, in turn, undermined efforts to create a unified security apparatus, ultimately leading to the eruption of the current conflict. The UN should have extended UNAMID's mandate until Sudan's transitional government had demonstrated its capability to protect civilians, particularly in light of the successor mission, the UN Integrated Transition Assistance Mission in Sudan (UNITAMS), lacking a Chapter VII enforcement- and protection-mandate from the outset in accordance with the wishes of the Sudanese government. Although it officially departed Sudan only after the conflict erupted, its diminished external legitimacy and marginalization meant it lacked the capacity to de-escalate the conflict.

While the primary responsibility to protect civilians lies with the Government of the Sudan and the parties to the conflict, both belligerents have largely failed to implement their commitments under the Jeddah Declaration on compliance with international humanitarian law and the protection of civilians.⁵⁴ Nonetheless, the UN Secretary-General has stated that the

most effective way of ensuring the comprehensive and sustained protection of civilians is ending the conflict by diplomatic means and for the parties to heed the UNSC's call for an immediate ceasefire.⁵⁵ He did not heed calls by Sudanese civilians, civil society actors, international human rights organizations, and the FFM Sudan for the establishment of an international protection force, stating simply that "at present, the conditions do not exist for the successful deployment of a United Nations force to protect civilians in the Sudan",⁵⁶ while emphasizing the importance of localized protection efforts.

While there is little appetite these days for new peacekeeping missions, Blinken's recent genocide declaration could constitute a turning point. The parallels with 2004 are apparent. Back then, the US declared the situation in Darfur as genocide, increasing international pressure to address the crisis which led to the adoption of UNSC Resolution 1564 that threatened sanctions against Sudan if it failed to comply with its obligations in Darfur and established the international commission of inquiry on Darfur. In 2007, the US supported the adoption of UNSC Resolution 1769, which officially established UNAMID.

Despite the Sudanese government being opposed to any intervention from the UN,⁵⁷ the UNSC can legally authorize interventions without the host State's consent under Chapter VII of the UN Charter if it determines there is a threat to international peace and security⁵⁸ (consent of the host country is sought for the effectiveness and safety of the mission rather than being a strict legal requirement). When UNAMID was deployed, virtually none of the essential minimum conditions for peacekeeping were in place in Darfur. There was no peace to keep, and the Sudanese government considered it an unwelcome guest and an obstacle to a potential military victory – the result of a negotiated compromise between the Government of the Sudan, the AU and the UN.⁵⁹ Yet, despite the numerous challenges, including the lack of reliable State consent and persistent efforts to undermine its effectiveness, UNAMID still managed to provide a protective presence, deterred violence against civilians, and reinforced a semblance of security and stability for the hundreds of thousands of internally displaced persons.⁶⁰

The Secretary-General's report only speaks to the limitations of deploying a UN force to protect civilians. This does not preclude the potential deployment of non-UN protection mechanisms such as a regional civilian protection force under the auspices of UNSC Resolution 2719 on UN financing for AU-led peace support operations ('AUPSOS').⁶¹ Considering recent tensions between key Sudanese political actors and the UN, the deployment of an AUPSO with a mandate to protect civilians might be an option.⁶² There are however complexities, suggesting a cautious approach to operationalizing Resolution 2719 effectively.⁶³ Sudan is still suspended from the AU⁶⁴ which could undermine the feasibility of an AUPSO.⁶⁵

5. Recommendations

Compliance by all parties with the UNSC's call for a ceasefire and adherence to the Jeddah Declaration,⁶⁶ and a cessation of foreign interference and the direct or indirect flow of arms into the Sudan, particularly by the UAE, would provide the most immediate and direct means of reducing the

retary-General, UN Doc. S/2024/759, 21 October 2024, para. 27 ('S/2024/759') (<https://www.legal-tools.org/doc/fq3gatcv/>).

⁵⁵ *Ibid.*, para. 40.

⁵⁶ *Ibid.*, para. 56.

⁵⁷ Damilola Banjo, "Why Russia Vetoed a Recent UN Ceasefire Resolution for Sudan", *PassBlue*, 1 December 2024.

⁵⁸ This has been used in cases like Libya (Resolution 1973) and Syria (Resolution 2165) to authorize humanitarian interventions.

⁵⁹ Summary report on lessons learned from the experience of the African Union-United Nations Hybrid Operation in Darfur, UN Doc. S/2021/1099, 29 December 2021, para. 43 (<https://www.legal-tools.org/doc/11tpi14w/>).

⁶⁰ *Ibid.*, paras. 43–44.

⁶¹ Jenna Russo and Bitania Tadesse, "With Tens of Millions of Sudanese at Risk, Does the UN Secretary-General's Report Offer Enough?", *The Global Observatory*, 31 October 2024. UNSC Resolution 2719 (2023), UN Doc. S/RES/2719 (2023), 21 December 2023 (<https://www.legal-tools.org/doc/ix6o48/>).

⁶² Roméo Dallaire, "How the U.N. Can Prevent Genocide in Sudan", *Foreign Policy*, 25 October 2025.

⁶³ Ashenafi Endale, "Re-conceptualizing AU peace operations: will it work for Sudan, Somalia?", *The Reporter Ethiopia*, 19 October 2024.

⁶⁴ AU, "Sudan suspended from the African Union", 16 January 2025.

⁶⁵ *The Reporter Ethiopia*, 19 October 2024, see *supra* note 63.

⁶⁶ Resolution 2724 (2024), UN Doc. S/RES/2724 (2024), 8 March 2024 (<https://www.legal-tools.org/doc/55f7w6/>).

⁴⁶ ICC, Office of the Prosecutor, Thirty-ninth Report of the Prosecutor of the International Criminal Court to the United Nations Pursuant to Resolution 1593 (2005), 5 August 2024, para. 7 ('ICC-OTP, 5 August 2024') (<https://www.legal-tools.org/doc/7mhdxsnl/>).

⁴⁷ *Ibid.*

⁴⁸ ICC, Office of the Prosecutor, "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.

⁴⁹ FFM Conference Room Paper, para. 317, see *supra* note 24.

⁵⁰ *Ibid.*, para. 100.

⁵¹ Note Verbale dated 27 February 2024 from the Permanent Mission of the Sudan to the United Nations Office at Geneva addressed to the Office of the President of the Human Rights Council, UN Doc. A/HRC/55/G/2, 6 March 2024, p. 12 (<https://www.legal-tools.org/doc/1mg1j0gs/>).

⁵² See National Security Forces Act, 1999, Article 33 (the English and Arabic versions are available at <https://www.legal-tools.org/doc/66aeb8/>); Police Act, 2008, Article 45 (Arabic: <https://www.legal-tools.org/doc/f3ce4tdw/>; English: <https://www.legal-tools.org/doc/788crj05f/>); Criminal Procedure Act, 1991, Article 11 (<https://www.legal-tools.org/doc/c7af04/>).

⁵³ US Foreign Relations Committee, "Chairman Menendez Statement for Senate Record on Escalating Violence in Darfur Following UNAMID Dissolution", 25 February 2021.

⁵⁴ Recommendations for the protection of civilians in the Sudan: Report of the Sec-

violence.⁶⁷

However, experts say that even if the war's foreign sponsors ceased support, the gold trade is so lucrative that the Sudanese warring parties could finance the conflict themselves.⁶⁸ Waiting for a diplomatic solution and ceasefire is untenable in light of ongoing atrocities. As explained by Joachim Savelsberg, during and after the first genocide in the early 2000s, "diplomacy pushed through the Peace Agreement, but it neither resulted in a stable South Sudan nor in pacification of the North".⁶⁹ While deploying a new peacekeeping mission after withdrawal could be seen as an admission of failure by the UN and the AU, the primary concern should be the protection of civilians. Both the UNSC and the AU Peace and Security Council should therefore urgently develop options for an international or regional civilian protection mission for Sudan, with a view to deploying a new mission mandated to protect civilians and monitor international human rights and humanitarian law violations whilst engaging with local communities. By learning from UNAMID's experience, a new mission can be better equipped to navigate these challenges.

With the spread of the conflict to most of Sudan, the UNSC should look to expand the ICC's jurisdiction through a new resolution, allowing the ICC to investigate and prosecute crimes beyond Darfur and expanding the arms embargo pursuant to UNSC Resolution 1556 (2004) to cover the entire Sudan. Targeted sanctions should be imposed on those responsible for crimes against humanity and war crimes in West Darfur, including the six individuals identified in the report of the Panel of Experts, as well as on those involved in the gold trade and conflict financing.⁷⁰ Given the findings of various human rights bodies and the recent declaration by Blinken, the ICC Prosecutor and the FFM Sudan should both include genocide in the investigations into recent violations in Darfur.

Complementary pathways to justice could include a Special Court for Sudan or a Special Tribunal for Darfur under the auspices of a future peace agreement that would apply Sudanese law and international law, staffed by African and international judges and prosecutors⁷¹ working in tandem with the ICC. However, ensuring strong political commitment and support from the Sudanese government and international support is crucial for the success of such a tribunal and it also would be essential to establish a clear and consistent legal framework that aligns with international standards to avoid the issues that plagued the Special Criminal Court on the Events in Darfur⁷² (now defunct) and the Hybrid Court for South Sudan ('HCSS', delayed).⁷³ The AU Assembly has the capacity to establish such *ad hoc* tribunals under Article 4(h) of the AU Constitutive Act, which was invoked in establishing the HCSS.

States could also employ universal jurisdiction to pursue individual suspects, support the ICC's ongoing investigation in Darfur by co-operating

⁶⁷ S/2024/759, para. 2, see *supra* note 54.

⁶⁸ Khalil Charles, "Can the UAE's promise to stop sending Sudan's RSF weapons be believed?", *Middle East Monitor*, 23 December 2024; "Egypt embroiled in Sudan border battles with smugglers", *Middle East Eye*, 11 January 2025.

⁶⁹ Joachim J. Savelsberg, "Sudanese Despair and International Failure, 2003–2024: No Way Out?", Policy Brief Series No. 158 (2024), Torkel Opsahl Academic EPublisher, Brussels, 2024, p. 3 (<https://www.toaep.org/pbs-pdf/158-savelsberg/>).

⁷⁰ See Emadeddin Badi, "Sudan is caught in a web of external interference. So why is an international response still lacking?", *MENASource*, Atlantic Council, 17 December 2024.

⁷¹ See AU, "Darfur: The Quest for Peace, Justice and Reconciliation, Report of the African Union High-Level Panel on Darfur (AUPD)", October 2009 (<https://www.legal-tools.org/doc/69e121/>).

⁷² See HRW, "Sudan: Lack of conviction – The Special Criminal Court on the events in Darfur", 8 June 2006.

⁷³ See Amnesty International, "South Sudan: African Union's abandoned commitment to justice in Africa: The case of the hybrid court for South Sudan", 23 November 2022.

for the collection of new evidence,⁷⁴ and work toward the implementation of the FFM Sudan's recommendations whilst providing it with the necessary resourcing and full political backing to meaningfully fulfil its mandate. The international community can also provide technical and financial support and capacity building to Sudanese civil society organizations that are documenting human rights abuses,⁷⁵ such as the Darfur Network for Human Rights, to bolster their protection and documentation efforts on the ground.

According to the RWCHR report⁷⁶, the UAE bears State responsibility for complicity in genocide, in breach of Article III (e) of the Genocide Convention for its longstanding, direct, ongoing and significant military, economic and political support of the RSF, enabling it to commit genocide in Darfur. States Parties to the Genocide Convention, particularly the US in light of its genocide declaration, are obligated to end complicity in, and employ all means reasonably available to prevent and stop, the genocide.⁷⁷ States should engage with the UAE and then – although challenging⁷⁸ – the ICJ on the question of violations of the Genocide Convention by the UAE, a State Party.

6. Conclusion

In June 2024, Sudan's envoy to the UN said the war would end if the UAE stopped sending weapons to the RSF.⁷⁹ It is clear the UAE must cease all military support to the faction immediately. While international pressure has already led to the UAE halting its arms supply,⁸⁰ continuous monitoring and verification are essential to ensure compliance.⁸¹

But the international community must do more. While the US' genocide determination, the establishment of the FFM Sudan, and ongoing ICC investigations signal progress, they remain inadequate. Breaking the cycle of violence and impunity requires enhanced sanctions and arms embargoes and compliance therewith, the deployment of a robust international civilian protection force, and the full implementation of the Genocide Convention and international criminal law.

The people of Sudan, particularly in Darfur, deserve protection and dignity. The legacy of impunity can no longer serve as a foundation for the country's future. Now is the time for meaningful action.

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⁷⁴ ICC-OTP, 5 August 2024, para. 51, see *supra* note 46.

⁷⁵ Ela Yokes, "How Sudanese rights defenders are risking their lives to document the war", *The New Humanitarian*, 11 March 2024; "Civil Society Sounds Alarm: Take Immediate Action on Sudan or Be Complicit in Future Atrocities", 15 November 2023 (available on the Global Centre for the Responsibility to Protect's web site).

⁷⁶ RWCHR report, page 46, see *supra* note 28.

⁷⁷ ICJ, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, 26 February 2007, para. 431 (<https://www.legal-tools.org/doc/5fcd00/>).

⁷⁸ Eugenio Carli, "On State Responsibility for Complicity in Genocide: Will South Africa's "All-In Strategy" Be Effective?", in *EJUL: Talk!*, 5 March 2024.

⁷⁹ *PassBlue*, 1 December 2024, see *supra* note 57.

⁸⁰ Kazim Abdul, "UAE ceases arms supply to Sudan's RSF amid international pressure", *Military Africa*, 23 December 2024.

⁸¹ *Middle East Monitor*, 23 December 2024, see *supra* note 68.



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