

SUDAN STUDY ON THE STATUS OF AND OPPORTUNITIES FOR REPARATIONS FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE







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SUDAN

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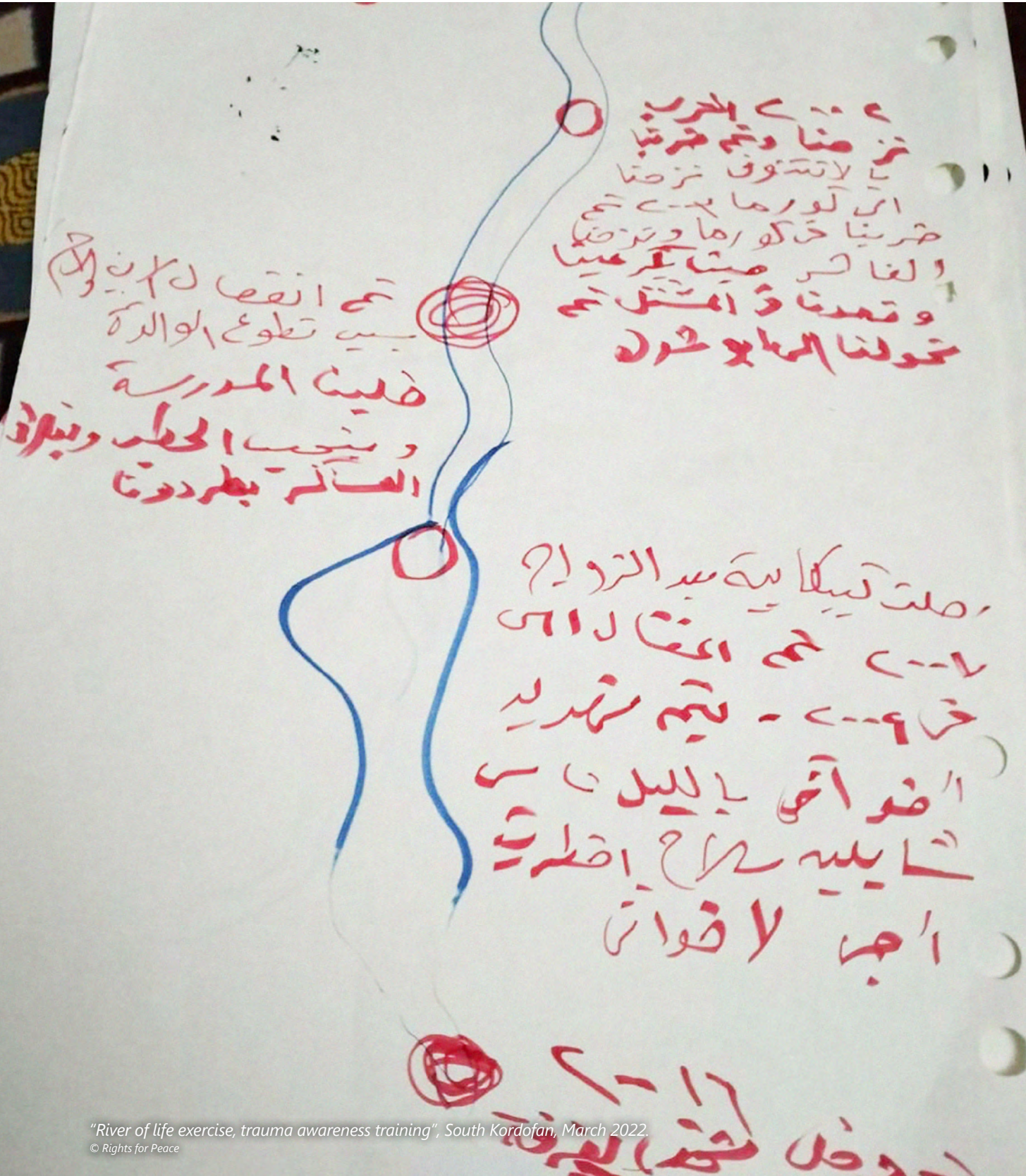


Kadugli, West Nuba Mountains, South Kordofan, 2008
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ACRONYMS

ACHR	African Charter on Human and People's Rights	IHL	International Humanitarian Law
AMA	Assistance Mission for Africa	IOM	International Organisation for Migration
AU	African Union	IRC	International Rescue Committee
BRD	Bill of Rights and Duties	JEM	Justice and Equality Movement
CAT	Convention Against Torture	MSF	Médecins sans Frontières (Doctors without Borders)
CCCM	Camp Coordination and Camp Management	NGO	Non-governmental Organisation
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	OHCHR	Office of the High Commissioner for Human Rights
CEDAW-OP	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	OPP	Other Opposition Parties
CD	Constitutional Declaration of 2019	OSIEA	Open Society Initiative East Africa
CPA	Comprehensive Peace Agreement	POC	Protection of Civilians
CRC	Convention on the Rights of the Child	RSF	Rapid Support Forces
CRSV	Conflict-Related Sexual Violence	SAF	Sudanese Armed Forces
CSO	Civil Society Organisation	SGBV	Sexual and Gender-Based Violence
CVAW	Combatting Violence Against Women	SLM/A	Sudan Liberation Movement/Army
DDR	Disarmament, Demobilisation and Reintegration	SPLM-N	Sudan People's Liberation Movement-North
EAC	East African Community	SPF	Sudan Police Force
FFC	Forces of Freedom and Change	SRSR-SVC	Special Representative of the UN Secretary-General on Sexual Violence in Conflict
FGM	Female Genital Mutilation	TMC	Transitional Military Council
GBV	Gender-Based Violence	UN	United Nations
GSF	Global Survivors Fund	UNAMID	African Union - United Nations Hybrid Operation in Darfur
ICC	International Criminal Court	UNICEF	United Nations Children's Fund
ICCPR	International Covenant on Civil and Political Rights	UNDP	United Nations Development Programme
ICESCR	International Covenant on Economic, Social and Cultural Rights	UNFPA	United Nations Population Fund
ICGLR	International Conference on the Great Lakes Region	UNHCR	UN High Commissioner for Refugees
IDP	Internally Displaced Person	UNMISS HRD	UNMISS Human Rights Division
IDPRC	Internally Displaced and Refugees Commission as set out in the Juba Agreement	UNSC	United Nations Security Council
IGAD	Intergovernmental Authority on Development	UNSCR	United Nations Security Council Resolution
		UNITAMS	United Nations Integrated Transition Assistance Mission in Sudan
		WASH	Water, Sanitation and Hygiene



منذ الحرب
 تزوجنا ونحن قريباً
 يا لانتعاف تزوجنا
 اني لو رما به...
 ضربتيا خذكو رما وتزوجنا
 والغا لى صينا كرمينا
 وقدمنا في امثل
 تحولنا الرما و حرد

تم انقضا ل...
 بيت تطوع الوالدة
 فدينا المدرسة
 و بنجيب الحمار و بنجيب
 العالم بطردونا

فصلت تبيكاً بعبء الترواح
 لا...
 خرا...
 اضوا انا بالليل
 تا يلبه رما اقله
 اجهد لأقواتي

أجهد لأقواتي

"River of life exercise, trauma awareness training", South Kordofan, March 2022.
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EXECUTIVE SUMMARY

Sudan's past is marred by conflict that pre-dates the 22 years of civil war that culminated in the Comprehensive Peace Agreement (CPA) in 2005, and that led up to the secession of South Sudan in 2011.¹ Widespread and systematic rape was used as a weapon of war before, during and since the North-South civil war, often committed with the intent to destroy or harm specific non-ethnic Arab communities.

The civil war was characterised as a genocide, with racial, ethnic and religious underpinnings,² as well as structural discrimination and the unequal distribution of resources. In 2003-4 the situation in Darfur captured the world's attention. The scale of violence against civilians led to the referral of the situation in Darfur to the International Criminal Court (ICC) by the UN Security Council even though Sudan has not ratified the Rome Statute. The ICC referral has since led to a series of arrest warrants against former president Omar-Al-Bashir and other members of the former regime, as well as leaders of the Janjaweed militia³ and the Justice and Equality Movement (JEM). Armed conflict between the Sudanese government and rebel groups in the Darfur region continues to date.

Attempts to bring peace to Darfur and Sudan have resulted in various agreements between the government and rebels. These include the 2006 Darfur Peace Agreement, the 2011 Doha Document for Peace in Darfur, and the recent 2020 Juba Agreement, only to see a coup in October 2021 end the political transition to democracy that began with the 2019 Revolution, and an all-out conflict erupt in April 2023. During all these phases, conflict-related

sexual violence (CRSV) has been a concerning and silenced feature, including in the conflict that broke out in April 2023.⁴

In 2019, a popular revolution met with brutal suppression by the state through violence and acts of targeted sexual violence. The revolution led to the successful expulsion of former president Omar-Al-Bashir after 30 years in power. Sudan's Armed forces signed a power-sharing agreement with the Forces for Freedom and Change (FFC), a coalition of civilians, political and armed opposition groups. This agreement led to a Constitutional Declaration that transferred most executive powers to a civilian transitional administration while creating a Sovereign Council, where Abdalla Hamdok appointed as the prime minister. A timeline for democratic elections was agreed upon for late 2023, at the end of a 39-month transitional period. As part of these developments, the Juba Peace Agreement was signed on 3 October 2020, providing a roadmap for peace and transitional justice in conflict-ridden regions, including Darfur.

However, the transition to civilian rule was hijacked on 25 October 2021, when the military staged a coup d'état, and General Abdel Fattah al-Burhan took over the government, thwarting progress on transitional justice. Public protests and resistance committees were violently opposed, but their efforts led to a Framework Agreement that was signed in early December 2022 between the Forces for Freedom and Change and the military regime, aimed at restoring a political transition.⁵

1 The Comprehensive Peace Agreement Between the Government of the Republic of The Sudan and the Sudan People's Liberation Movement/ Sudan People's Liberation Army (2005) https://peacemaker.un.org/sites/peacemaker.un.org/files/SD_060000_The%20Comprehensive%20Peace%20Agreement.pdf accessed 5 June 2023.

2 According to the Prosecutor of the ICC, the alleged conducts of Omar al Bashir give rise to genocide in so far were not only intended to destroy a substantial part of the Fur, Masalit and Zaghawa groups as such, but could by themselves effect such destruction or were at least part of a manifest pattern of similar conduct against the targeted groups. See ICC, *Prosecutor v Omar Al Bashir*, 'Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir' ICC-02/05-01/09 (4 March 2009) https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2009_01517.PDF accessed 5 June 2023.

3 The Janjaweed are an Arab militia group that operates in Sudan, particularly in Darfur, and eastern Chad. The Janjaweed are accused of crimes against humanity and genocide in Darfur by the ICC, and described as "men with no mercy" typically arriving on horseback and torching villages.

4 Alarming reports of CRSV in Khartoum and other parts of Sudan since the outbreak of conflict on 15 April 2023 have raised concerns. See UN Special Representative to the Secretary General on Sexual Violence in Conflict (SRSG-SVC), 'UN Special Representative to the Secretary General on Sexual Violence in Conflict expresses grave concerns over alleged acts of sexual violence in Sudan during the ongoing violence' (24 May 2023) <https://www.un.org/sexualviolenceinconflict/press-release/un-special-representative-of-the-secretary-general-on-sexual-violence-in-conflict-expresses-grave-concern-over-alleged-acts-of-sexual-violence-in-sudan-during-the-ongoing-violence/> accessed 5 June 2023.

5 Alan Boswell, 'A breakthrough in Sudan's Impasse?' Crisis Group (12 August 2022) <https://www.crisisgroup.org/africa/horn-of-africa/sudan/breakthrough-sudans-impasse> accessed 5 June 2023.

Despite all civil society efforts and public protest, hopes for a return to civilian rule following the coup were eliminated on 15 April 2023, when conflict erupted between the Sudan Armed Forces and the Rapid Support Forces – made up of former Janjaweed militia. Over 800,000 people were displaced in the first weeks of fighting, with Khartoum and Darfur particularly affected. There are also reports of hundreds of casualties and numerous incidents of CRSV.

Sexual violence is being used as a weapon of war again, to repress resistance committees and ethnic minority groups in the conflict regions. In Khartoum, public debate on the issue has been silenced by government denial,⁶ repression and patriarchal narratives that blame and persecute women, suggesting that they return to traditional roles and private spaces. As demonstrated by Omar Bashir in an interview with NBC News in March 2007:

“It is not in the Sudanese culture or people of Darfur to rape. It doesn’t exist.”⁷

Rape is also used to silence women and deter them from participating in pro-democracy protests. An evidenced by the Khartoum Massacre of 3 June 2019, where dozens of women were sexually assaulted by government forces.⁸

Widespread rape in Darfur and South Kordofan has occurred as part of ethnically motivated attacks on non-Arab villages by the army, security forces, and the Janjaweed militia. It is widely reported that the Janjaweed berated women during these attacks, calling them “Tora Bora”, a slang word originally used to describe rebels who hid in caves and currently used to label Darfuris as rebels.⁹ They were also called

“slaves”, referring to the historical enslavement of non-Arabs. Victims were also told that they should be honoured to be raped so that they could bear a “free” child, asserting that they are wiping out non-Arabs.¹⁰

Most survivors interviewed for this Study were unaware of their rights, especially the right to reparation. They expressed unmet needs, repression and having experienced repeated attacks. They demand justice and highlight past and present government failures, a lack of acknowledgement of mistakes or any form of state apologies.

Survivors’ most immediate needs are security, medical assistance, as well as psychological, social, and economic support. An overwhelming obstacle to their empowerment is the cultural stigma associated with rape, which leads to abandonment and ostracisation. Survivors call for community awareness and sensitisation programmes to foster a conducive environment for reporting violations and seeking justice. They also call for legal reform and transformative reparations to dismantle discriminatory laws, policies and cultures that have so greatly contributed to the oppression and treatment of women as second-class citizens.

There are legal pathways towards transitional justice and reparations in the Doha Agreement (2006), the Constitutional Declaration (2019) and the Juba Peace Agreement (2020). The Constitutional Declaration provides for the establishment of a Transitional Justice Commission as well as compensation and return of properties to displaced persons. The Juba Agreement’s General Principles affirm victims’ rights to access justice mechanisms, especially the right to immediate redress and compensation. It establishes, amongst other bodies, the Internally Displaced and Refugees Commission (IDPRC), which is expected to receive reparations claims from victims of the conflict in Darfur.

6 SRS-G-SVC, ‘Special Representative of the Secretary-General on Sexual Violence in Conflict Ms. Pramila Patten Concludes Visit to Sudan and Calls for End to Culture of Denial for Conflict-Related Sexual Violence’ Press release (27 February 2018) <https://www.un.org/sexualviolenceinconflict/press-release/special-representative-of-the-secretary-general-on-sexual-violence-in-conflict-ms-pramila-patten-concludes-visit-to-sudan-and-calls-for-end-to-culture-of-denial-for-conflict-related-sexual-violence/> accessed 5 June 2023.

7 Nobel Women’s Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 1 <https://nobelwomensinitiative.org/wp-content/uploads/2013/12/Survivors-Speak-Out-Sudan-web.pdf?ref=218> accessed 27 April 2022.

8 Physicians for Human Rights, “Chaos and Fire: An Analysis of Sudan’s June 3, 2019 Khartoum Massacre” (March 2020) <https://phr.org/wp-content/uploads/2020/03/PHR-Report-Sudan-Chaos-and-Fire-March-2020-ENG.pdf> accessed 5 June 2023.

9 Rights for Peace Report: “Can we prevent the spread of renewed atrocities? Structural discrimination in Sudan” (May 2022) p.16 <https://www.rightsforpeace.org/sudan-report-2022> accessed 5 June 2023.

10 Tara Gingerich and Jennifer Leaning, *The use of rape as a weapon of war in the conflict in Darfur, Sudan* (Harvard School of Public Health, 2004).

KEY RECOMMENDATIONS

1. Immediate cessation of hostilities and sexual violence by the Sudanese Armed Forces and Rapid Support Forces;
2. The UN Security Council and UN Human Rights Council should mandate an immediate inquiry into all human rights violations committed since the 25 October 2021 coup, as well as since the outbreak of conflict on 15 April 2023, with a specific emphasis on CRSV;
3. The Sudanese Armed Forces and Rapid Support Forces should publicly condemn and demand cessation of sexual violence against civilians and should immediately hold perpetrators in their ranks to account;
4. The warring parties should remain committed to humanitarian agreements, such as the Jeddah Humanitarian Agreement signed on 11 May 2023 to allow CRSV survivors access to medical assistance;
5. The warring parties, other armed groups, and a new civilian Transitional Government should commit to the UN Framework Agreement on the Prevention and Response to Sexual Violence against Women and Girls during Conflict signed on 10 March 2020;
6. A new civilian Transitional Government and political parties should ensure that CRSV survivors are included in discussions on transitional justice in any new agreement;
7. A new civilian Transitional Government should establish the Transitional Justice Commission in accordance with the law adopted on 24 April 2021;
8. A new civilian Transitional Government should expedite the approval of the Draft Violence Against Women Law, drafted by the VAW Unit in the Ministry of Social Development;
9. All parties to the conflict must acknowledge their contribution towards the CRSV in Sudan, render apologies, commence a Disarmament, Demobilisation and Reintegration (DDR) processes and implement robust accountability measures; and,
10. Security Sector reform should be expedited, including dismantling of the Rapid Support Forces (RSF) and their removal from residential areas, internally displaced persons (IDP) camps and their surroundings in conflict regions.

WITH REGARD TO REPARATIONS

1. Any political agreement after the conflict should ensure accountability and facilitate reparation, including urgent interim reparation for survivors of CRSV and other victims in need;
2. Any future political agreement should adopt a holistic approach to transitional justice by establishing the Transitional Justice Commission outlined in the 2021 law and support the transitional justice mechanisms envisioned in the Juba Peace Agreement;
3. All processes should ensure genuine consultations with affected communities, enabling women and survivors' engagement in the design and implementation of processes and mechanisms in accordance with Security Council Resolutions 1325 and 2467;
4. A new civilian Transitional Government should break the silence, blame and social stigma around sexual violence through community awareness programmes to create an enabling environment for survivors to be supported, report cases and ultimately acquire reparations; and,
5. The international community should provide holistic support to victims ensuring they can access remedies and reparations through the ICC, existing domestic justice processes and future transitional justice mechanisms.



Focus group discussion, North Darfur, April 2022.
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I. BACKGROUND AND METHODOLOGY

1.1. About the project, project partners and acknowledgements

1.1.1. About the project

Rights for Peace (RfP), in collaboration with a women-led association in North Darfur, and another in South Kordofan, other local partners in South Kordofan and Khartoum, and the Global Survivors Fund (GSF) conducted this study to identify the reparation needs of survivors of CRSV in Sudan, as well as the opportunities for delivering reparations to survivors through judicial and administrative processes.

A participatory and reparative methodology was used, ensuring survivors were treated as rights holders, integrating psychosocial awareness, capacity building and support, for an empowered discussion on the impact arising from the harms and viable pathways towards reparations in Sudan. Focus group discussions with CRSV survivors in the conflict regions included a psychosocial component. A series of bilateral and round table meetings were also held with stakeholders in Khartoum, constituting an integral part of the consultations and informing recommendations. These included women's organisations, women's rights lawyers, medical practitioners, academics, activists, the Combating Violence Against Women & Children Unit in the Ministry of Social Development (CVAW), UNDP Sudan Rule of Law Section, UNITAMS Senior Women Protection Advisor on CRSV.

The Sudan Study illustrates the culture of silence around sexual violence in Sudan and how CRSV has been understudied and rarely addressed. Survivors shared their perceptions regarding reparations based on their needs and aspirations. The Study offers practical solutions and recommendations for further action, identifying potential support available from key actors.

This Study is divided into five main sections, the first of which provides an overview of the forms of CRSV perpetrated in Sudan as well as the profile of survivors and perpetrators. The second section examines the consequences CRSV has had for survivors and the

wider community. This section also includes survivors' perceptions, needs, and priorities for reparations, as well as the associated challenges of making such priorities a reality. The third section explores current survivor access to interim assistance and relief, in the absence of reparation schemes in Sudan. The fourth section analyses the normative frameworks for reparations under international, regional, and domestic law that are relevant to reparations in Sudan. The fifth and final section explores both opportunities for, and possible challenges to, accessing reparations in Sudan and concludes with a set of recommendations to ensure that survivors of CRSV receive reparations.

The Sudan Study is part of a global study on reparations (the "Global Reparations Study") launched by GSF in 2020, which focuses on the status of and opportunities for reparations for survivors of CRSV in over 20 countries. The Global Reparations Study is a multi-actor effort led by the GSF in collaboration with over 40 local and international partners, including survivors' networks and groups. It seeks to make recommendations for further action based on survivors' needs and aspirations and to identify potential support available among key actors and concrete action to enhance access to reparation for CRSV survivors around the world.

1.1.2. About the project partners



Rights for Peace is a UK-based human rights organisation working to prevent mass atrocity crimes in fragile states by supporting and collaborating with local organisations. In this project, local partners included **Nuba Women for Education and Development Association (NuWEDA)** in South Kordofan and **Salmeen Charity** in North Darfur. Rights for Peace's mission is to counter identity-based violence and promote survivor-led transitional justice through training, human rights education, advocacy, and research. For more information, visit www.rightsforpeace.org.



GSF was launched in October 2019 by Dr Denis Mukwege and Ms Nadia Murad, Nobel Peace Prize laureates of 2018. Its mission is to enhance access to reparations for survivors of CRSV around the globe, thus seeking to fill a gap long identified by survivors. GSF acts to provide interim reparative measures in situations where states or other parties are unable or unwilling to meet their responsibilities. GSF advocates also for duty bearers, as well as the international community, to develop reparation programmes, and provides expertise and technical support to guide states and civil society in the design of reparation programmes. GSF’s survivor-centric approach is the cornerstone of its work. For more information, visit www.globalsurvivorsfund.org.

1.1.3. Authors and acknowledgements

The Sudan Study was drafted by Mariana Goetz, Director and Founder of RfP and human rights practitioner; Najlaa Ahmed, RfP Legal Advisor, British/Sudanese human rights lawyer; Victoria Taban, RfP Legal Associate, South Sudanese human rights lawyer and an Advocate of the High Court of Kenya; and Cara Priestley, former Advocacy Officer at RfP, who has worked in the UK and internationally in the areas of human rights.

Rights for Peace would like to thank its Sudanese partners and other stakeholders who have been instrumental in shaping and delivering this project and contributing towards informed recommendations despite extremely challenging conditions amidst protests, conflict and insecurity.

We would also like to thank the brave women in Sudan who, against all odds, came forward and shared their stories, struggles and hopes, despite the range of challenges that CRSV survivors face.

1.2. Methodology

1.2.1. Brief outline of activities

The first phase of the project entailed meetings and consultations with stakeholders already engaged in providing services in Sudan, desk-based research and a mapping of open-source material relating to the scale and scope of the violence.

The second phase involved field activities including training workshops, focus group discussions and interviews as follows:

- Psychosocial and rights training workshops were conducted in two locations. An introduction to trauma healing concepts engaged 19 survivors of CRSV through interactive exercises, role plays and discussion. Sessions also provided information on available services including legal and medical referrals.
- Human rights training was an important component of the workshops in order to provide information about existing legal frameworks in Sudan and internationally.
- The main component of the workshops was a Focus Group Discussion to hear detailed accounts of the impact of CRSV on different aspects of survivors’ lives; and for survivors to share their perceptions and expectations of reparations.
- Semi-Structured interviews (GSF’s questionnaire on Survivor’s Needs and Perceptions of Reparation) – Meeting with women’s organisations that are working with survivors to adapt forms and questionnaires and clarify the criteria of participants.

A third phase gathered expert views of activists and policymakers working on transitional justice or women’s rights to inform the Study recommendations.

- Round table with women groups and survivors – This facilitated discussions and data collection based on experiences from a range of experts in different regions. A narrative report was derived from the different activities informing the recommendations made in this report.

1.2.2. Research methods

This report was informed by various research methods including desk-based review of open-source material, two focus group discussions as well as individual interviews involving a total of 19 survivors, aged 18 to 70 years old, that took place in mid-2022. The participants were all female, which can be attributed to the additional stigma faced by male survivors of CRSV. Amongst the resources used for guiding interview sessions was a pre-defined questionnaire developed by GSF, focused on survivors' personal experiences, views, and expectations. The Study followed a mixed-methods approach using qualitative information to capture information on survivors' perceptions of reparations for CRSV and quantitative data to analyse survivors' demographic profiles.



19 female survivors, aged 18 to 70 years old, participated in this Study.

A psychosocial awareness session accompanied each encounter, and served as an icebreaker, in order to acknowledge the harm suffered by survivors and to create a safe environment for them to share their experiences. Through various exercises, survivors were able to form solidarity bonds amongst themselves. Most survivors expressed relief and gratitude after the sessions and requested follow-up sessions. Such exercises included pedagogic content, singing, self-awareness exercises like the "river of life"¹¹ as well as

opportunities for sharing and strengthening solidarity. A roundtable was also held in August 2022 with Khartoum-based stakeholders, women groups and survivors who contributed to shaping recommendations for stakeholders.

1.2.3. Study limitations

Some challenges were experienced in identifying survivors who were willing to take part in focus group discussions or interviews in South Kordofan and Khartoum. In South Kordofan, survivors who might have participated from areas considered to be associated with the Sudan People's Liberation Movement-North (SPLM-N), were not able to be engaged because those areas were not accessible at the time. As a result, the views of survivors associated with SPLM-N are not represented in the research findings. Participants were also hesitant in mentioning any armed forces out of fear of reprisals.

The continuous protests in Khartoum, with associated violence, surveillance, arrests, communication outages and repression of independent media were other significant challenges that prevented more engagement from survivors in Khartoum. The conflict in West, Central and South Darfur, the October 2021 coup, and the outbreak of war between the Sudan Army and Rapid Support Forces on 15 April were all serious challenges. These factors caused delays in conducting interviews, focus groups and validation workshops, due to the threats they posed to the safety of staff, survivors and other stakeholders. Access to refugees based in Eastern Chad proved unattainable and their direct views on reparations have not been obtained, however this gap was bridged through desk-based and open-source research.

The round table discussion was also delayed until August 2022 due to pro-democracy protests, which created a hostile environment and uncertainty in the region.

¹¹ The river of life exercise is a structured sharing opportunity for facilitators and participants to each draw a river that depicts the ups and downs in their life story. This can be done with pen and paper or using flowers, stones and other symbols on the ground with less literate groups. Trained psychosocial workers should facilitate these or other types of trauma awareness activities.



II. HISTORY OF CONFLICT IN SUDAN: INTERSECTIONS OF RACE AND SEXUAL VIOLENCE

“Mass atrocities in Sudan have no clear endings [...] Each episode of mass atrocity occurs for different reasons, including fear-driven counterinsurgency, ideological ambition, and clearing areas to seize resources, but they resemble one another in their pattern of ethnically-targeted destruction of civilian communities.”¹²

The dynamics, grievances and motivations that fuel the conflict derive from a long history of structural inequalities that persists today.¹³ Structural dominance, inequality and racism date back to before Turkish Sudan (1820-81), which was led by an Arab-dominated regime in Khartoum that exploited non-Arab peoples through slavery and their natural resources. Sexual violence against slaves was legal and was used as a tool to force enslaved women into submission as well as to further the profit of slaveholders through breeding.¹⁴ The legacy of the trans-Saharan slave trading continues today – it is still common for newspapers in Sudan to publish racial slurs referring to ethnic black citizens as “slaves”. Coupled with conservative Islamist ideology regarding the role of women, gendered as well as racial hatred and incitement to sexual violence continue today. Among other countless examples,¹⁵ the columnist of a daily newspaper referred to the female football coach of the Gunners, a well-known youth team for girls, as a slave.¹⁶

Domination of black, non-Arab ethnic groups by Arab-elites in Khartoum, continued during the Anglo-Egyptian Condominium (1899-1956). Colonial rule was governed through a “divide and rule” policy, led predominantly by Muslim and Arabic-speaking elites in the north, whilst Southern provinces were marginalised and neglected.¹⁷ Sudan’s independence from the United Kingdom (1953-1956) involved structural violence resulting in two civil wars, with projects of “Arabisation” and institutional islamisation that further repressed non-Arab ethnic groups that dominate Darfur, South Kordofan and Blue Nile regions.¹⁸

This marginalisation incentivised the Sudan Liberation Movement/Army (SLM/A), composed of the ethnic Fur, Zaghawa and Masalit in Darfur, to take up arms against the government in February 2003. They were later joined by the Justice and Equality Movement (JEM) with whom they demanded an end to marginalisation and increased protection for civilians. A genocide was unleashed when the

12 World Peace Foundation – Tufts University, ‘Sudan: 1985 – 2005’ in Mass Atrocities Endings, <https://sites.tufts.edu/atrocityendings/2015/08/07/sudan-2nd-civil-war-darfur/> accessed 5 June 2023.

13 Kim Searcy, ‘Sudan in Crisis’, Origins – Ohio State University https://origins.osu.edu/article/sudan-darfur-al-bashir-colonial-protest?language_content_entity=en accessed 5 June 2023.

14 Liz Barnes, book review of *When Rape was Legal: The Untold History of Sexual Violence during Slavery* (October 2019) <https://reviews.history.ac.uk/review/2344> accessed 5 June 2023.

15 Rights for Peace, ‘Can we prevent the spread of renewed atrocities? Addressing structural discrimination in Sudan’ (May 2022).

16 ‘Viewpoint from Sudan - where black people are called slaves’ *BBC News* (26 July 2020) <https://www.bbc.co.uk/news/world-africa-53147864> accessed 5 June 2023.

17 Electoral Institute for Sustainable Democracy in Africa (EISA), ‘Sudan: British colonialism’s divide and rule (1896-1939)’ (2020) <https://www.eisa.org/wep/sudoverview3.htm> accessed 11 May 2022; Alison J. Ayers, ‘Sudan’s uncivil war: the global—historical constitution of political violence’ (2010) 37 (124) *Review of African Political Economy*, p. 157.

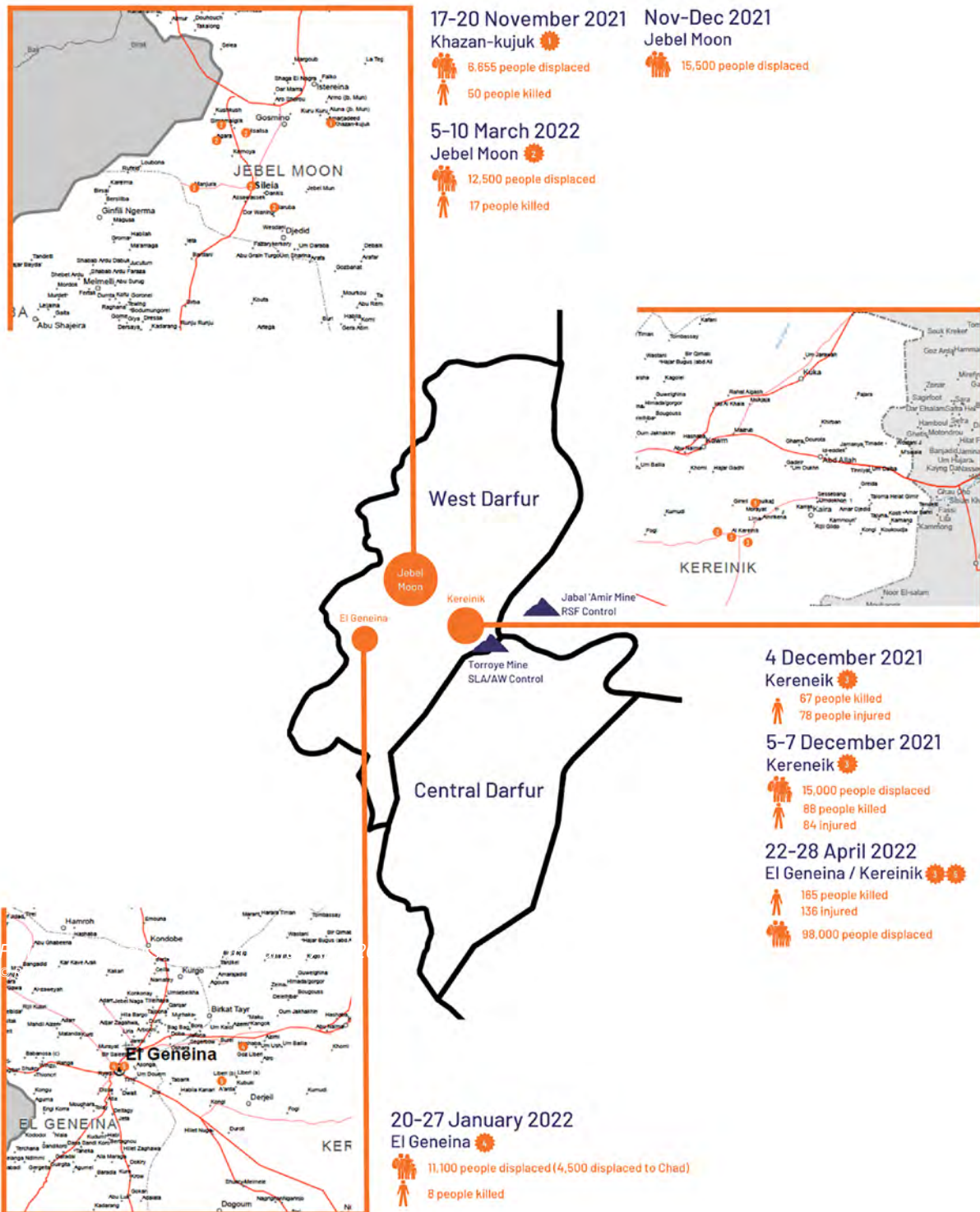
18 Iris Seri-Hersch, ‘Arabization and Islamization in the making of the Sudanese “Post-colonial” State (1946 -1964)’ (2020) *Cahiers d’études africaines* <https://journals.openedition.org/etudesaficaines/32202?lang=en> accessed on 22 July 2022.

Janjaweed militia, composed of nomadic groups and bandits, was incentivised to fight against the so-called “rebels” that had taken up arms against the Khartoum government. The Janjaweed led a counterinsurgency campaign in Darfur in which thousands of villages were destroyed. Tens of thousands of civilians were murdered, raped, attacked and displaced.

The Government of Sudan ultimately formalised the Janjaweed militia into the Rapid Support Forces (RSF) in 2013, a paramilitary force which continues to be led by General Mohamed Hamdan Dagalo “Hemeti”

today.¹⁹ The RSF and General Hemeti became increasingly powerful throughout the following decade through the exploitation of natural resources in Darfur. They continued to commit mass atrocities, including sexual violence against the ethnic Fur, Zaghawa and Masalit. The RSF are responsible for opening fire on protesters during the 2019 revolution resulting in a massacre and mass rapes. The RSF also played a key role in the military coup that ended the transition to democracy in October 2021 and attacked the Sudan Armed Forces on the morning of 15 April 2023, engulfing the country in an all-out civil war.

¹⁹ ACLED, ‘The Rapid Support Forces and the Escalation of Violence in Sudan’ (2 July 2019) <https://reliefweb.int/report/sudan/rapid-support-forces-and-escalation-violence-sudan> accessed 19 October 2022.



20 years of violence in Darfur: snapshot of ongoing atrocities during the few months of field work for this Study.
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III. CONFLICT-RELATED SEXUAL VIOLENCE IN SUDAN

3.1. Nature, scale and patterns of sexual violence

Sexual violence has been used as a weapon of war by all parties to the various conflicts in Sudan,²⁰ with the aim of humiliating, punishing, controlling, terrorising and displacing communities.²¹ As is the pattern of violence in Sudan, CRSV is often racially motivated, and has been used as part of “ethnic cleansing” campaigns in areas such as Darfur and South Kordofan.²²

CRSV affects victims of all backgrounds indiscriminately and irrespective of the victim’s age, sex, ethnicity, or religion.²³ The victims are both male and female,²⁴ and their ages vary between 5 and 70 years old.²⁵ Women and girls are the primary victims of CRSV²⁶ with the majority being girls under the age of 18.²⁷

In Khartoum, sexual violence has been used by government security forces to suppress political, pro-democracy and human rights activists.²⁸ It is also used against displaced women in Khartoum’s IDP camps by police forces and militia gangs to instil fear and assert dominance over communities.²⁹ Police and militia violence around Khartoum’s IDP camps is recognised as an indirect result of the conflicts and subsequent displacement.³⁰ In Darfur, South Kordofan and other conflict regions, rape against so-called ‘rebels’ or IDP women and girls by men in military uniform, the Janjaweed, or the Rapid Support Forces has been an ongoing feature of active conflicts and exploitation in these regions. Such violence has also continued during relative peacetime as a regular occurrence, while women and girls go about their daily tasks such as collecting firewood.³¹

20 Nobel Women’s Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 2.

21 Amnesty International, ‘Sudan, Darfur: Rape as a weapon of war: sexual violence and its consequences’ (18 July 2004), p. 29 <https://www.amnesty.org/en/wp-content/uploads/2021/06/afr540762004en.pdf> accessed 6 June 2023.

22 Human Rights Watch, ‘Sexual Violence and its Consequences Among Displaced Persons in Darfur and Chad’ (12 April 2005) p. 2 <https://www.hrw.org/legacy/backgrounder/africa/darfur0505/darfur0405.pdf> accessed 5 June 2023.

23 REDRESS and African Centre for Justice and Peace Studies (ACJPS), ‘A Way Forward? Anti-torture Reforms in Sudan in the post-Bashir era’ (2019) p. 19 https://redress.org/wp-content/uploads/2019/12/REDRESS_Sudan-Report_final.pdf accessed 5 June 2023.

24 FIDH and ACJPS, ‘Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) p. 4 https://www.fidh.org/IMG/pdf/sudan_darfur.pdf accessed 12 June 2023.

25 ICC, *The Prosecutor v. Omar Al Bashir*, ‘Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir’, ICC-02/05-01/09 (4 March 2009) para 106; Médecins Sans Frontières, ‘The Crushing Burden of Rape: Sexual Violence in Darfur’ (8 March 2005), p. 3 <https://www.msf.org/crushing-burden-rape-sexual-violence-darfur>; Nobel Women’s Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 2.

26 UN Security Council, ‘Conflict-related sexual violence: Report of the Secretary General’ S/2020/487 (3 June 2020) para. 5; Médecins Sans Frontières, ‘The Crushing Burden of Rape: Sexual Violence in Darfur’ (8 March 2005), p. 3.

27 UN Security Council, ‘Special report of the Chairperson of the African Union Commission and the Secretary-General of the United Nation on the African Union-United Nations Hybrid Operation in Darfur and follow-up presence’ S/2020/202* (12 March 2020) para. 28 <https://digitallibrary.un.org/record/3856183?ln=en> accessed 12 June 2023; HUDO Centre, ‘Report on the Human Rights Situation in South Kordofan and Blue Nile States of Sudan: January-December 2015’ (2016) p. 22; Human Rights Watch, *Mass Rape in Darfur: Sudanese Army Attacks against Civilians in Tabit* (February 2015) p. 24 <https://www.hrw.org/report/2015/02/11/mass-rape-north-darfur/sudanese-army-attacks-against-civilians-tabit> accessed 6 June 2023.

28 UN Human Rights Council, ‘Situation of Human Rights in the Sudan. Report of the United Nations High Commissioner for Human Rights’ (9 May 2022) A/HRC/50/22, p. 9 <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session50/list-reports> accessed 5 August 2022. The expert and the joint human rights office verified 13 incidents of rape, gang rape, attempted rape, and other forms of SGBV during protests held during the coup period.

29 Strategic Initiative for Women in the Horn of Africa (SIHA) Network, ‘Gender Briefing: Sudan’ (10 March 2020) p. 10 <https://sihanet.org/gender-briefing-sudan/> accessed 6 June 2023.

30 Nobel Women’s Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 12.

31 Tara Gingerich and Jennifer Leaning, *The use of rape as a weapon of war in the conflict in Darfur, Sudan* (Harvard School of Public Health, 2004).

It is difficult to assess the scale of CRSV due to chronic underreporting of cases influenced by stigma, harassment, trauma, lack of protection, inaccessibility, prejudice and inaction of law enforcement, and physical risks surrounding disclosure in locations where perpetrators exert significant power over civilians.³² However, based on counts of UN official reports from 2006 to 2020, in which reported case numbers were provided,³³ it is estimated that there have been tens of thousands of victims in the 2002-20 conflict, if not more.

Acts of sexual violence have taken different forms in Sudan. The most common reported crimes are cases of rape and gang rape.³⁴ The joint African Union and United Nations Hybrid Operation in Darfur (UNAMID) has found that 80% of reported cases were rape or attempted rape.³⁵ In Darfur, rape has been used as a war strategy to terrorize the population³⁶ and gang rapes were committed in front of families and friends.³⁷ Cases of abduction and kidnapping for the purpose of raping victims or using them as sex slaves as well as forced marriage have been documented.³⁸

NGOs and UN agencies have also reported cases of genital mutilation against both men and women.³⁹ There have also been allegations of sexual exploitation and abuse by UN peacekeeping personnel.⁴⁰

Refugee women from Darfur living in camps in Eastern Chad have also shared their experiences on being raped by armed men dressed in military fatigues as they fled from Darfur,⁴¹ or by bandits and members of the Chadian National Army as they venture outside their camps in Chad, in search of necessities like firewood, water and straw.⁴² They recounted being held as sexual slaves and being locked in rooms with other women and noted that “prettier” women were raped. Survivors highlighted the pervasiveness of a culture of silence which has led to underreporting, due to stigmatisation and ostracisation from community members.

The ongoing conflict and humanitarian crisis further expose women to sexual violence, which is used as means of controlling the civilian population by state as well as non-state actors.⁴³

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- 32 The Gender Security Project, ‘CRSV: Darfur’ (10 July 2021) <https://www.gendersecurityproject.com/post/sexual-violence-in-conflict-darfur> accessed on 22 July 2022.
- 33 Estimate based on reported figures in annual reports of the UN Secretary General to the Security Council, UNAMID reports and UN Panel of Expert Reports since 2006.
- 34 ICC, *The Prosecutor v. Omar Al Bashir, ‘Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir’*, ICC-02/05-01/09 (4 March 2009) para 106; Office of the Prosecutor – ICC, ‘Eighth Report of the Prosecutor of the International Criminal Court to the UN Security Council pursuant to UNSCR 1593 (2005)’, (3 December 2008) para. 38 <https://reliefweb.int/report/sudan/eighth-report-prosecutor-international-criminal-court-un-security-council-pursuant> accessed 6 June 2023; REDRESS and ACJPS, ‘A Way Forward? Anti-torture Reforms in Sudan in the post-Bashir era’ (2019) p. 19; The International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 6; Médecins Sans Frontières, ‘The Crushing Burden of Rape: Sexual Violence in Darfur’ (8 March 2005), p. 4; FIDH and ACJPS, ‘Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) pp. 5, 35; HUDO Centre, ‘Report on the Human Rights Situation in South Kordofan and Blue Nile States of Sudan: January-December 2015’ (2016); Human Rights Watch, ‘Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad’ (12 April 2005) pp. 1-2 <https://www.hrw.org/legacy/background/africa/darfur0505/darfur0405.pdf> accessed 6 June 2023; UN Human Rights Council, ‘Report of the Independent Expert on the situation of human rights in the Sudan’, A/HRC/39/71 (13 August 2018), para. 50 <https://www.ohchr.org/en/documents/country-reports/ahrc3971-report-independent-expert-situation-human-rights-sudan> accessed 6 June 2023; Office of the Prosecutor – ICC, ‘Twenty-Second Report of the Prosecutor of the International Criminal to the United Nations Security Council pursuant to UNSCR 1593 (2005)’, (15 December 2015) para. 33 https://www.icc-cpi.int/sites/default/files/iccdocs/otp/OTP-rep-15-12-15_Eng.pdf accessed 6 June 2023.
- 35 FIDH and ACJPS, ‘Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) p. 37.
- 36 SIHA Network, ‘Gender Briefing: Sudan’ (2020) p. 10.
- 37 Human Rights Watch, *Mass Rape in Darfur: Sudanese Army Attacks against Civilians in Tabit* (February 2015) p. 19.
- 38 UN Security Council, ‘Final report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005), S/2019/34 (10 January 2019) para. 144 https://www.un.org/securitycouncil/sanctions/1718/panel_experts/reports accessed 12 June 2023; FIDH and ACJPS, ‘Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) pp. 4, 50.
- 39 The International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 1; FIDH and ACJPS, ‘Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) p. 4; Human Rights Watch, ‘Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad’ (12 April 2005), pp. 4-5.
- 40 UNAMID, ‘Allegations of Sexual Offences by a UNAMID National Civilian Staff’ (1 July 2019) <https://unamid.unmissions.org/allegations-sexual-offences-unamid-national-civilian-staff> accessed 6 June 2023.
- 41 Manar Idriss, ‘Trapped in an endless cycle of violence plight of Darfuri women and girls’ <https://www.amnesty.org/en/latest/campaigns/2013/11/trapped-in-an-endless-cycle-of-violence-the-plight-of-darfuri-women-and-girls/> accessed on 15 August 2022.
- 42 Amnesty International, ‘“No place for us here”: Violence against refugee women in Eastern Chad’ (September 2009) <https://www.amnesty.org/en/documents/AFR20/008/2009/en/> accessed on 6 June 2023.
- 43 Social Institutions and Gender Index, ‘Sudan’, pp. 4-5 <https://www.genderindex.org/wp-content/uploads/files/datasheets/SD.pdf> accessed 12 June 2023.

Lack of accountability and traditional practices further aggravate the perpetration of sexual violence, which disproportionately affects women. The absence of judicial remedies has worsened impunity and where CRSV cases are dealt with through traditional justice mechanisms, there is no regard for women's rights or international standards. This is aggravated by patriarchal cultural norms and beliefs held by women. Reports have found that 68% of Darfuri women believe that a husband is justified to beat his wife compared to the national average of 47%.⁴⁴ The application of Sharia Law has extensively contributed towards patriarchal gender norms, creating an environment for unjust treatment and discrimination. Participants of this Study reported being survivors of rape, gang rape, sexual slavery, and forced prostitution, as well as other types of violations such as torture, arbitrary arrest, imprisonment, and persecution.

3.2. Genocidal and ethnically motivated CRSV in government counterinsurgency campaigns

CRSV in Sudan has an ethnically motivated dimension, where the national army, army-backed militia, police or intelligence agencies target women from so-called "African tribes" and areas as a form of political or conflict-related punishment. This is prevalent in the Darfur region, in relation to the Fur, Masalit and Zaghawa,⁴⁵ and in the Nuba Mountains in relation to Nubians,⁴⁶ where the motive is to punish, persecute and force the displacement of different ethnic

groups.⁴⁷ From 1987 to 2002, rape formed a key part of a genocidal campaign waged by the Sudanese government to "eliminate the Nuba identity", with the Sudanese army using rape to terrorise the civilian population and "cleanse" them from the area, with a similar strategy as employed in Darfur.⁴⁸ Arab tribesmen were encouraged to forcibly marry Nuba women to eliminate Nuba identity.⁴⁹ A refugee interviewed by Amnesty International in Chad in May 2004 testified that a Janjaweed fighter shared the sentiments below in relation to Nubas:

"Omar al Bashir told us that we should kill all the Nubas. There is no place here for the Negroes anymore."⁵⁰

The International Commission of Inquiry on Darfur⁵¹ found that "rape or other forms of sexual violence committed by the Janjaweed and Government soldiers in Darfur was widespread and systematic".⁵² The Office of the High Commissioner for Human Rights (OHCHR) reported in 2005 that whilst large-scale attacks against civilians had subsided, rape continued to be perpetrated by armed men alleged to be members of the Government armed forces, law enforcement agencies and Janjaweed.⁵³ Between January and June 2016, UNAMID reported the largest number of sexual violence cases in Darfur (63%) during hostilities between the Government and the

44 UNAMID Human Rights Section, 'Human Rights First' Vol. 2, Issue 1, p. 11 (February 2018) https://unamid.unmissions.org/sites/default/files/hrs_first_2018_edition-final.pdf accessed 12 June 2023.

45 SIHA Network, 'Human Rights Conditions of Female Detainees and Prisoners in Sudan' (2020) p. 3 <https://sihanet.org/human-rights-conditions-of-female-detainees-and-prisoners-in-sudan/> accessed 6 June 2023; SIHA Network and Urgent Action Fund Africa, 'The Women's Convening: Rebuilding Sudan "Nothing About Us, Without Us"' (2019) p. 24 https://issuu.com/halayassin/docs/sudan_women_s_convening_report_-_final accessed 6 June 2023.

46 Julie Flint, 'Return to War in Sudan's Nuba Mountain' Peace Brief 112 (United States Institute of Peace, 2 November 2011) p. 2 <https://www.usip.org/publications/2011/11/return-war-sudans-nuba-mountains> accessed 6 June 2023.

47 Office of the Prosecutor-ICC, 'Twenty-Fourth Report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to UNSCR 1593 (2005)' (13 December 2016) para. 26 https://www.icc-cpi.int/sites/default/files/itemsDocuments/161213-otp-rep-24-darfur_Eng.pdf accessed 6 June 2023.

48 Nobel Women's Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict, 'Survivors Speak Out: Sexual Violence in Sudan' (November 2013) p. 9.

49 Ibid p. 10.

50 Amnesty International, 'Sudan, Darfur: Rape as a weapon of war: sexual violence and its consequences' (18 July 2004) p. 22.

51 Established by the UN Secretary-General in October 2004 pursuant to Security Council resolution 1564 (2004) (18 September 2014).

52 International Commission of Inquiry on Darfur, 'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General' (25 January 2005) para. 360 [emphasis added]; OHCHR, 'Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights' (29 July 2005) para 17 <https://www.ohchr.org/sites/default/files/Documents/Countries/darfur29july05.pdf> accessed 6 June 2023.

53 OHCHR, 'Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights' (29 July 2005) para 12.

Abdul Wahid faction of the Sudan Liberation rebel movement in Jebel Marra.⁵⁴ Women were raped and abducted, internally displaced women accounted for 67% of the victims.⁵⁵

More recently, sexual violence has been committed during the clashes between non-state armed groups, in order to violently obtain territory in the East and Northern part of the Jebel Marra region⁵⁶ (a hilly region in central Darfur, whose gold concessions were reportedly taken over by General Hemeti, leader of the RSF, in 2017).⁵⁷ Attacks in the north, south and west areas of the Darfur region have been conducted in public spaces during military assaults; around IDPs camps; in villages and rural communities⁵⁸; and other remote places when survivors were conducting livelihood activities.⁵⁹ According to the SIHA Network, sexual violence is rampant in detention centres.⁶⁰

3.3. Sexual violence against the pro-democracy movement, 2018-present

Sexual violence has been a recurring feature in repressing pro-democracy protesters. Activists and human rights defenders are subjected to multiple

intersecting violations including sexual violence, harassment, and rape by security forces.⁶¹ The use of sexual violence in Sudan is systemic and has most recently been used by security forces as a method to discourage women's participation in the pro-democracy movement.

CRSV has been documented during peaceful protests since December 2018,⁶² inflicted as a form of punishment for what the officers label as "rebellion".⁶³ During the massacre on 3 June 2019 – an attack against protesters at the prolonged mass sit-in – women and men protesters detailed how they were gang raped, raped, sexually assaulted or harassed in public spaces while others were kidnapped and repeatedly raped.⁶⁴ OHCHR reported an increase in rape cases around the country during this period.⁶⁵ Arbitrary arrests and detention are also enforced against pro-democracy protesters, exacerbated by a weak judiciary and impunity in Sudan.

The SEEMA Center for Training and Protection of Women and Child's Rights documented many cases of sexual violence experienced by female protesters. One gang rape incident lasted three

54 UN Security Council, 'Report of the Secretary-General on conflict-related sexual violence' S/2017/249 (15 April 2017) para. 66 <https://digitallibrary.un.org/record/1298526?ln=en> accessed 12 June 2023.

55 Ibid.

56 UN Human Rights Council, 'Report of the Independent Expert on the situation of human rights in the Sudan', A/HRC/39/71 (13 August 2018), para. 29; UN Security Council, 'Conflict-related sexual violence: Report of the Secretary General' S/2020/487 (3 June 2020) para. 52.

57 Khalid Abdelaziz, 'Exclusive: Sudan militia leader grew rich by selling gold' *Reuters* (26 November 2019) <https://www.reuters.com/article/us-sudan-gold-exclusive-idUSKBN1Y01DQ> accessed 6 June 2023.

58 REDRESS and ACJPS, 'A Way Forward? Anti-torture Reforms in Sudan in the post-Bashir era' (2019) p. 19. On CRSV committed in the Jebel Marra region see also UN Security Council, 'Conflict-related sexual violence: Report of the Secretary General' S/2020/487 (3 June 2020) para. 52.

59 UN Security Council, 'Conflict-related sexual violence: Report of the Secretary General' S/2020/487 (3 June 2020) paras. 70-74; FIDH and ACJPS, 'Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) pp. 36-37; Human Rights Watch, *Mass Rape in Darfur: Sudanese Army Attacks against Civilians in Tabit* (February 2015) p. 26; UN Human Rights Council, 'Report of the Independent Expert on the situation of human rights in the Sudan', A/HRC/39/71 (13 August 2018), para. 50; Office of the Prosecutor – ICC, 'Twentieth Report of the Prosecutor of the International Criminal Court to the UN Security Council Pursuant to UNSCR 1593(2005)' (December 2014) para. 20 <https://www.icc-cpi.int/sites/default/files/iccdocs/otp/20th-UNSC-Darfur-report-ENG.PDF> accessed 6 June 2023.

60 SIHA Network, 'Human Rights Conditions of Female Detainees and Prisoners in Sudan' (2020) pp. 1, 3. This was also documented by REDRESS and ACJPS, 'A Way Forward? Anti-torture Reforms in Sudan in the post-Bashir era' (2019) p. 17.

61 Zeinab Mohammed Salih, 'They won't break us': Sudanese protesters decry sexual attacks' *Al Jazeera* (23 December 2021) <https://www.aljazeera.com/news/2021/12/23/they-wont-break-us-sudanese-protesters-decry-sexual-attacks> accessed 11 April 2022. See also 'Sudan: BBC investigation shows abuse of female demonstrators' *BBC News* (22 March 2022) <https://www.bbc.co.uk/news/av/world-africa-60514266> accessed 12 April 2022.

62 REDRESS and ACJPS, 'A Way Forward? Anti-torture Reforms in Sudan in the post-Bashir era' (2019) pp. 12, 17-18.

63 Round table Discussion (August 2022).

64 Human Rights Watch, *"They Were Shouting 'Kill Them'" – Sudan's Violent Crackdown on Protesters in Khartoum* (2019) p. 32 https://www.hrw.org/sites/default/files/report_pdf/sudan1119_web.pdf accessed 6 June 2023.

65 United States Department of State, '2021 Country Report on Human Rights Practice: Sudan', section 1C, Torture and other Cruel, Inhumane or degrading treatment or punishment <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/sudan/> accessed 29 June 2022.

hours and took place in a security pick-up truck after the women had been arrested.⁶⁶ Threats of rape and sexual blackmailing were also reported with 18 incidents as of 11 April 2019. 22 cases of rape had been documented on and after 3 June 2009.⁶⁷ Many cases went unreported due to the stigma and shame associated with sexual assaults.⁶⁸ Racial slurs were reportedly used against women amounting to inhumane, degrading treatment and ultimately rape.⁶⁹

UNICEF reported that twelve child survivors of sexual violence received medical and psycho-social treatment by child protection actors on 3 June 2019 and its aftermath.⁷⁰

In March 2022, demonstrations took place across Sudan in reaction to the alleged gang-rape of a teenager by security forces.⁷¹ There has been a devastating trend of incidents of sexual violence and gang rape being filmed and circulated on social media, seemingly used as part of a campaign to silence women and as reprisals for other advancements in women's rights.⁷²

3.4. Profile of perpetrators

The assailants are often identified as armed men in civilian clothing, members of the armed forces, Arab proxy forces, Arab tribal militia, armed nomads, criminal gangs, men in unspecified military uniforms, and minor boys.⁷³ Since the conflict in Darfur in 2003, the following categories of perpetrators have been identified:⁷⁴

- members of the Government's defence and military forces, controlled by the President as the Commander-in-Chief,⁷⁵ including the Sudanese Armed Forces, Sudan Police Force, and Border Guards;⁷⁶
- government's paramilitary groups;
- the National Intelligence and Security Services (NISS),⁷⁷ now the General Intelligence Service, was a powerful state organ supervised by the President and under direct responsibility of the Director General; and,
- the Rapid Support Forces (RSF),⁷⁸ their proxies, and the Janjaweed militias.⁷⁹

66 The SEEMA Center for Training and Protection of Women and Child's Rights were interviewed by Amnesty International, see Amnesty International, "They descended on us like rain". Justice for victims of protest crackdown in Sudan' (2020) p. 35 <https://www.amnesty.org/en/documents/afr54/1893/2020/en/> accessed 27 October 2022.

67 Ibid.

68 Amnesty International, "They descended on us like rain". Justice for victims of protest crackdown in Sudan' (2020) p. 35.

69 Ibid p. 36.

70 UNICEF 'Sudan: Humanitarian Situation Report. Mid-Year 2019' p. 2 <https://www.unicef.org/media/77076/file/Sudan-Sitrep-Mid-Year-2019.pdf> accessed 12 June 2023. There were also reported deaths of at least 19 children and 49 injured.

71 Zeinab Mohammed Salih, 'Protests in Sudan after alleged gang-rape of young woman by security forces' *The Guardian* (16 March 2022) <https://www.theguardian.com/global-development/2022/mar/16/protests-in-sudan-after-alleged-gang-rape-of-young-woman-by-security-forces> accessed 11 April 2022.

72 Waging Peace (@WagingPeaceUK) (Twitter, 8 June 2021) <https://twitter.com/WagingPeaceUK/status/1402233895907643397> accessed 11 April 2022.

73 Asylum Research Centre, 'Sudan: Country Report. Country Report on Darfur' (2019) <https://www.ecoi.net/en/document/2002368.html> accessed 6 June 2023.

74 Médecins Sans Frontières, 'The Crushing Burden of Rape: Sexual Violence in Darfur' (8 March 2005), p. 3; FIDH and ACJPS, 'Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) pp.35-38; ICC, *The Prosecutor v. Omar Al Bashir*, 'Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir' ICC-02/05-01/09 (4 March 2009) para. 109; ICC, *The Prosecutor v. Harun & Abd-Al-Rahman*, 'Decision on the Prosecution Application under Article 58(7) of the Statute' ICC-02/05-01/07 (27 April 2007) paras. 100-102.

75 International Commission of Inquiry on Darfur, 'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General' (25 January 2005) paras. 78-79.

76 UN Security Council, 'Final report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005), S/2019/34 (10 January 2019) para. 145.

77 The NISS was known for conducting violent counter-insurgency operations in Darfur, South Kordofan and Blue Nile, including during peaceful protests, which culminated in the 3 June Massacre in 2019.

78 Human Rights Watch, "They Were Shouting 'Kill Them'" – Sudan's Violent Crackdown on Protesters in Khartoum' (2019) p. 28.

79 REDRESS and ACJPS, 'A Way Forward? Anti-torture Reforms in Sudan in the post-Bashir era' (2019) p. 17; FIDH and ACJPS, 'Will There Be Justice for Darfur? Persisting impunity in the face of political change (December 2019) pp. 11, 21; UN Security Council, 'Final report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005), S/2019/34 (10 January 2019) para. 145; Human Rights Watch, 'Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad' (12 April 2005) p. 3; International Commission of Inquiry on Darfur, 'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General' (25 January 2005) para. 98; African Commission on Human and Peoples' Rights, 'Report of the African Commission on Human and Peoples' Rights' Fact-Finding Mission to the Republic of Sudan in the Darfur Region (08 to 18 July 2004) paras. 36, 127 <https://achpr.au.int/sites/default/files/files/2022-10/misrepfactfindsudan2004eng.pdf> accessed 12 June 2023.

The structure of the Janjaweed militias remains largely unknown, though affected communities identify three categories:

- militias that received weapons from the state but were controlled by tribe's leaders;⁸⁰
- militias acting in parallel to the armed forces;⁸¹ and
- militias who are members of the Popular Defence Force (paramilitary forces mainly composed of civilians and reservists).⁸²

All three categories are said to have received weapons and have taken orders from the Government.⁸³

In Chad, survivors also reported that sexual violence committed against Sudanese refugees in refugee camps along the border with Sudan in Chad were allegedly committed by Chadian soldiers and civilians living around the area of the camps.⁸⁴ In November 2008, the UN Panel of Experts on Sudan reported that Khartoum had also supplied Chadian rebels with weapons.⁸⁵

Non-state armed groups are also responsible amongst perpetrators of CRSV. To a lesser extent, and more recently, members of non-state armed groups, including from the Sudan Liberation Army-Abdul Wahid Al-Nur (SLA/AW) faction,⁸⁶ as well as armed nomads, have been identified as perpetrators of CRSV particularly in the Jebel Marra mountains.⁸⁷

80 International Commission of Inquiry on Darfur, 'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General' (25 January 2005) para. 106.

81 Ibid, para. 107.

82 Ibid, para. 108.

83 Ibid, paras. 111-113.

84 Nobel Women's Initiative and The International Campaign to Stop Rape and Gender Violence in Conflict, 'Survivors Speak Out: Sexual Violence in Sudan' (November 2013) p. 6.

85 Julie Flint; "Beyond Janjaweed": Understanding the Militias of Darfur" (Small Arms Survey and Graduate Institute of International Development and Studies, June 2009) <https://www.smallarmssurvey.org/resource/beyond-janjaweed-understanding-militias-darfur-hsba-working-paper-17> accessed 7 June 2023.

86 Office of the Prosecutor – ICC, 'Thirtieth Report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to UNSCR 1593 (2005)' (18 December 2019) para. 17 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/2019-12-19-otp-report-UNSC-sudan-eng.pdf> accessed 7 June 2023; Office of the Prosecutor – ICC, 'Thirty-Second Report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to UNSCR 1593 (2005)' (10 December 2020) para. 32 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/201210-otp-report-uns-c-darfur-eng.pdf> accessed 7 June 2023. According to the International Commission of Inquiry in 2005, few cases of rape were reportedly committed by non-state armed groups. See International Commission of Inquiry on Darfur, 'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General' (25 January 2005) para. 335.

87 UN Security Council, 'Final report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005), S/2019/34 (10 January 2019) para. 145; UN Security Council, 'Conflict-related sexual violence: Report of the Secretary General' S/2020/487 (3 June 2020), para. 52; UN Security Council, 'Special Report of the Chairperson of the African Union Commission and the Secretary-General of the United Nations on the African Union-United Nations Hybrid Operation in Darfur and a follow-on presence' S/2020/1115* (13 November 2020), para 28 <https://digitallibrary.un.org/record/3856183?ln=en> accessed 12 June 2023.



Members of the Sudanese Army in Jawa village, in East Jebel Marra, South Darfur, 18 March 2011.
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Focus group discussion, North Darfur, April 2022.
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IV. SURVIVORS' PERCEPTIONS, NEEDS, PRIORITIES AND RISKS

4.1. Impact of conflict-related sexual violence on victims, families, and communities

The impact of rape is felt across Sudan and has impacted women from numerous communities particularly survivors of political conflict in Khartoum, displaced populations in Darfur, South Kordofan, Blue Nile and refugees currently living in locations such as South Sudan, Uganda and Chad.⁸⁸

This section analyses the profiles of survivors who participated in the Study, relaying their perceptions, needs, priorities, and perceived risks around reparations, based on focus group discussions and individual semi-structured interviews.

4.1.1. Physical impacts

The physical impacts of CRSV are brutal and long lasting. Survivors of sexual violence in the Darfur region have arrived at Médecins Sans Frontières (MSF) with broken bones or burns after the assaults.⁸⁹ Survivors have also been infected with HIV/AIDS and other sexually transmitted infections like syphilis.⁹⁰ The physical damage is worsened due to the widespread practice of female genital mutilation (FGM) on Darfuri women. Women in the Darfur region are often circumcised in a very severe manner, which results in the removal of all external genitalia and stitching of the vaginal opening to a small hole. The physical

aftereffects of rape have dire impacts including trauma to the reproductive organs and difficulty in childbirth which could result in death due to excessive bleeding or other complications.⁹¹ Assaultants have reportedly subjected CRSV victims to other harms like cutting out their genitals. In one case an 18-year-old's labia and clitoris were cut off, with dire impacts on the survivors, as well as on other women and girls in the community.⁹²

"He said, 'Are you a Nuba? You are from the people who fought us.' He was carrying a knife, he fought with me and put me on the ground. I still suffer from his grab up today. My hand is hurting me. I cannot hold heavy things or carry a water bucket."⁹³

Attempts at self-abortions due to stigma frequently result in excessive bleeding and sometimes death. Women at the refugee camps also suffer from fistulas, breeding shame and rejection from their husbands. Cases of sexual violence are mostly ethnic or tribally motivated and certain communities bear the brunt more than others. Survivors have also reported doctors' refusal to treat them as victims of rape, subjecting them to revictimisation.

"We, as the IDPs Women union, reported rape cases [...], but unfortunately, the doctors there didn't believe the rape victims, although they were bleeding, such denial and refusal to be treated as a rape victim is devastating for us."⁹⁴

88 Chad hosts around 370,000 Refugees from Darfur, most live in Ennedi-Est, Wadi Fira, Ouaddai and Sila, all near Chad's border with Sudan. Majority of the refugees arrived in Chad following the escalation of the Darfur crisis in 2003-04. See <https://www.acaps.org/country/chad/crisis/darfur-refugees> accessed 16 March 2023.

89 Focus group discussion, South Kordofan (March 2022).

90 Refugees International, 'Ending Sexual Violence in Darfur: An Advocacy Agenda' (November 2007) p. 9 <https://www.refworld.org/docid/47a6eb950.html> accessed 7 June 2023; Focus group discussion, South Kordofan (March 2022).

91 Ibid.

92 UN Security Council, Panel of Experts on the Sudan, 'Final report of the Panel of Experts on the Sudan' S/2020/36 (14 January 2020) <https://www.securitycouncilreport.org/un-documents/document/s-2020-36.php> accessed on 15 August 2022.

93 Survivor Interview SSI-SK03, South Kordofan (March 2022).

94 Round Table Discussion (August 2022).

Survivors raised concerns about a lack of access to health facilities, medical support and psychotherapy especially after the closure of some international organisations. They wanted such organisations reinstated in order to obtain help.⁹⁵

“Now I am sick as a result of gang rape by four Arab militiamen. I contracted syphilis and had bleeding for almost a year.”⁹⁶

4.1.2. Psychological impacts on male, female, and child victims

Most survivors stated that they have lived with trauma for many, many years. Attempts and desires to commit suicide due to hopelessness have also been reported. Some survivors have expressed feelings of hopelessness, restlessness, anger, anxiety, insomnia, others blame their husbands for abandoning them when they needed them the most.⁹⁷

“The trauma from successive wars is unaddressed, and we mostly rely on God to persevere because there is no way out.”⁹⁸

Some survivors have expressed an urge to isolate themselves from people as a result of being sexually assaulted. They avoid all soldiers as they experience a trauma response at their sight and fear that they will be subjected to sexual violence again.

Children born of rape are generally not accepted in Sudan. There are a number of stigmatising names used to refer to children born out of wedlock, and these are also used to refer to children born of rape. In Darfur, women dread giving birth to Arab looking children, who are referred to as “Janjaweed child”. Children born of rape in Darfur are also referred to as ‘Suluma’. In South Kordofan, the labelling and stigma against children born of CRSV is less systematic, with some survivors recounting acceptance from their

families and community. However, most survivors in Darfur expressed feeling helpless and hopeless because they cannot provide for children born of rape, especially after being abandoned by their husbands or families. One survivor expressed her frustration at her inability to continue working after she contracted syphilis. Now her neighbours and the wider community must take care of her and feed her, which is difficult given that they are poor as well.⁹⁹

“Sometimes I feel like I don’t want to live any more but what prevents me from continuing to feel this way are my daughters. I must take care of them and protect them, and they must go to school and have a decent education.”¹⁰⁰

4.1.3. Social impacts on male, female, and child victims

Survivors have expressed an unwillingness to return to their communities even if peace and order is restored, which can be attributed to the stigma and ostracisation. In Darfur, only unmarried victims were willing to talk about what happened; married women were too scared to open up due to the social impacts that could result from their secret being exposed. This is also an issue that applies to refugees in Eastern Chad.

“We are afraid of going to the hospital and reporting the rape. We are embarrassed about what happened to us and scared if we get any disease. Since I have been raped, I haven’t got my period, and I suffer from a continuous headache.”¹⁰¹

95 Jacob Kurtzer and Nadia Schaaphok, ‘Sudan at a Crossroads: A Humanitarian Opening?’ Centre for Strategic and International Studies (5 August 2020) <https://www.csis.org/analysis/sudan-crossroads-humanitarian-opening> accessed 25 July 2022.

96 Focus group discussion, South Kordofan (March 2022).

97 Ibid.

98 Ibid.

99 Ibid.

100 Survivor Interview SSI-SK04, South Kordofan (March 2022).

101 Survivor Interview SSI-SSK01, South Kordofan (March 2022).

One of the cultural beliefs amongst the Darfuri was that a woman cannot get pregnant from unwanted sex.¹⁰² As a result, an Arab looking child will not be accepted by the community.¹⁰³ Rape is also considered a taboo, and pregnancy as a result of rape is an unspeakable shame, with the child branded as a child of the enemy: a “Janjaweed child” or “Suluma”.¹⁰⁴ One survivor said:

“My husband left us, and I am blamed for what happened to me and demonised by the community. The RSF soldiers raped me a couple of times when I went outside the village to collect the wood.”¹⁰⁵

Survivors and their children are shunned and married women are left by their husbands. Unmarried women who are survivors may never marry and are considered “spoiled”. In interviews, survivors stated that sometimes the communities expressed their willingness to accept the victim but not the child born of rape.

“I have no support from anyone and the worst thing that happened to me is my husband’s ostracisation. He abandoned me after my rape incident. But what can I do? I have to accept what God gave me, I just have to persevere.”¹⁰⁶

Children are exposed to rape, torture and inhumane treatment if abducted and the rest face dire living conditions including exposure to diseases like malaria, or lack of food and water as well as exhaustion.

4.1.4. Economic and legal impacts on male, female, and child victims

Most of the survivors previously had various means of securing their livelihood, which they relied on to take care of their families. This has drastically changed since most of them have been displaced and lack

any form of income. Their economic vulnerability increases the risk of revictimisation, as the lack of income options forces survivors to collect firewood beyond the perimeters of camps, exposing them to sexual violence.

There is a lot of scepticism surrounding reporting to police stations or seeking legal redress as most cases go unresolved. Also, survivors prefer not to make themselves known, especially when it is unlikely that action will be taken.

“My husband left us, and now I have to work in other people’s farms and collect wood and sell it in the market.”¹⁰⁷

Despite the grave physical, psychological, and socioeconomic impacts for survivors, there has been limited progress towards redressing or mitigating those harms. CRSV takes place in a social and legal context in which CRSV is normalised and where most survivors have no access to services, protection, or justice.¹⁰⁸

4.1.5. How the impact of conflict-related sexual violence has evolved over time

Due to the prevalence of CRSV, families favour child and forced marriages to ensure girls are not “spoiled”. Marriage in the refugee camps has become cheap with respect to the traditional dowry or “bride price”. Moreover, such marriages have become very common as parents marry off their daughters at a very young age, in order to save the family’s honour. This interferes with their education, and it is also a violation of children’s rights.¹⁰⁹ Hasty marriages have also disrupted the social structure and fabric surrounding marriage, which traditionally is concluded over a prolonged period of time and engages extended families – measures which ensure protection of the girl.

102 See Amnesty International, ‘Sudan, Darfur: Rape as a weapon of war: sexual violence and its consequences’ (July 2004), pp. 17-18.

103 Ibid.

104 Round table Discussion (August 2022).

105 Focus group discussion, South Kordofan (March 2022).

106 Ibid.

107 Survivor Interview SSI-SSK01, South Kordofan (March 2022).

108 Nobel Women’s Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict, ‘Survivors Speak Out: Sexual Violence in Sudan’ (November 2013) p. 2.

109 One survivor from Darfur said the spouses are chosen by their families, and those forced to marry are treated as objects and suffer a lot. In most cases these men marry a second wife deeming it ‘proper’ marriage.



View of the abandoned village of Tangarara, North Darfur, March 2011.
© Albert Gonzalez Farran / UNAMID

Due to the social stigma that comes from CRSV, many women and girls are abandoned by their husbands and fathers, resulting in them having to take up the role of heading households. This gendered role-reversal has sometimes led to marginalisation

and discrimination due to highly patriarchal norms, especially in refugee camps. This interferes with the decision making of women and girls and further marginalisation in the distribution of food within the community.

“My husband left us after the incident of sexual violence against me and my daughter, he blamed me for this as if I was consenting what happened to me, it was by force against my will.”¹¹⁰

4.2. Survivors' perceptions and agency

Survivors of CRSV have different levels of knowledge about their rights as well as the right to reparation. One survivor, who was raped by a soldier, said she knows nothing about human rights and did not report the ordeal to anyone because she was unaware of how to react to the entire situation.¹¹¹

When asked about reparations, another survivor called it “Taweed” (compensation) or “Jabr Darar” (damage repair). Some survivors did not know what reparations are and were unaware of the right to reparation. A number of them said the harm is from God and they await God’s decision with regards to the violations committed against them. Many of those interviewed shared this view, as in different regions of Sudan, religious beliefs about God’s will are strongly held. Accepting money to compensate for one’s losses, whether human or material, is seen as impermissible. For many survivors, what happened is seen as God’s will, and God alone can compensate them.

In both Darfur and South Kordofan, the emphasis is on justice rather than compensation:

“If it means money, we don’t need money, we need peace to live peacefully, and to remove the Rapid Support Forces camp from our area.”¹¹²

However, some survivors, depending on education levels and training, have differing views. One survivor in South Kordofan raised the need for compensation after a discussion on victims’ rights:

“I need monetary compensation to help me in providing my family food and to go to school. In the long term, everyone who faced injustice should be compensated individually and collectively according to the harm they suffered.”¹¹³

Some survivors have questioned the efficiency of reparations and noted that the past cannot be undone. They questioned how the dignity of rape victims can be restored by reparations when the whole community is aware of the incident.¹¹⁴ They questioned the concept of reparation, and whether it can restore their health, bring back loved ones they have lost or salvage their damaged reputations. The participating survivors raised the need for more information and discussion surrounding their rights and advocacy was highlighted.

“They called us ‘Hey Tora Bora women, we need this thing (we need to have sex)’. I told them I am a married and old woman, they said to me ‘Shut up Tora Bora’. I begged them to leave us alone, they raped me and my daughter and she got pregnant as a result.”¹¹⁵

Claiming and seeking justice has also proven difficult as reported cases are neither investigated nor followed-up. One survivor attributed this to discrimination because of her tribe and ethnicity which is the Nuba community. They believe the government will never support or help them because they are Nuba.

110 Focus group discussion, South Kordofan (March 2022).

111 Survivor Interview SSI-SK04, South Kordofan (March 2022).

112 Focus group discussion, South Kordofan (March 2022).

113 Survivor Interview SSI-D02, Darfur (March 2022).

114 Focus group discussion, South Kordofan (March 2022).

115 ‘Tora Bora’ is a slang term which was “originally used to describe the Darfurian rebels who hid in the Jebel Marra caves, and has hence come to be used as a term to brandish all Darfurians as armed rebels. Human Rights Watch reported in 2004 that government-sponsored forces were brutalising women of the same ethnicity as the rebels, excoriating them for being ‘women of Tora Bora’”. See Rights for Peace, ‘Can we prevent the spread of renewed atrocities? Addressing structural discrimination in Sudan’ (May 2022).

"I have no trust in the justice system because I tried to file a case against the perpetrator who raped me, but I landed to nowhere. His unit in the army hid him and the police said they couldn't find him anywhere. The soldier who harmed me was never arrested and tried for what he has done to me. Do you think the government will compensate me?"¹¹⁶

Some survivors have also reported being turned away at police stations and being told that it was not time for such reports.¹¹⁷ Amongst the victims of sexual violence on 3 June 2019, some included female medical practitioners who were attending to the injured. Several doctors were reportedly raped by RSF soldiers that day at makeshift clinics, including the one near the electricity building by the navy headquarters in Khartoum.¹¹⁸

Survivors raised examples of how measures of satisfaction such as access to remedies were being frustrated by authorities as well as non-governmental organisations. Complaints include:

- Inaction by authorities. There is an intersection of different types of discrimination: because the victims are women, because perpetrators are officials, and because the victim is from a marginalised community like Fur or Nuba. As pointed out by one survivor:

"You cannot obtain justice against the government after filing a complaint against a policeman who raped you. No action was taken and I don't believe the government would ever compensate me."¹¹⁹

One survivor explained the structural discrimination against certain communities:

"I filed a case against the offender, but nothing happened. His Unit hid him, we are the poor people, and we will never get support from the government. Nuba people always face discrimination even when they face injustice. I don't have any hope to receive justice."¹²⁰

- Failure by organisations to follow up with survivors after obtaining information from them. Survivors noted with concern that organisations collected information and reports and they received nothing in return. One of them alluded to sessions with personnel from the ICC and false promises made by organisations. This breeds an environment of distrust as survivors view such engagement as futile.

"I know what it means to me, it's my right, however, this is not the first time people come here and collect information from us and go. In the past we provided our information to many organisations, we don't know what happened to what we provided."¹²¹

- Complaints against persons in the new Transitional Government appointed before and after the October 2021 Coup who committed atrocities while in the previous administration without being held accountable.
- Discrimination and profiling. One survivor expressed distress when asked about race, which can be attributed to the constant profiling by Sudanese security forces. Sensitivities around racial discrimination must be considered in order to prevent traumatising when engaging with survivors.

"I object to the question about my race and ethnicity, as a human rights organisation you shouldn't ask such a question. I was arrested by the police during a demonstration 10 months ago. I didn't go back home."¹²²

116 Focus group discussion, South Kordofan (March 2022).

117 Ibid; see also Physicians for Human Rights, "Chaos and Fire: An Analysis of Sudan's June 3, 2019 Khartoum Massacre" (March 2020) p. 42.

118 Ibid p. 40.

119 Focus group discussion, South Kordofan (March 2022).

120 Ibid.

121 Survivor Interview SSI-D01, Darfur (March 2022).

122 Ibid.

| 4.3. Survivors' current needs

4.3.1. Urban survivors emphasise justice and psychosocial support

Survivors' needs have been wholly neglected across the country, though these differ with regards to those in Khartoum and those living in conflict regions. In Khartoum there is a stronger emphasis on justice and the need for psychological and medical support from personnel trained in trauma care and sexual violence.

The availability of limited trauma support sessions currently provided by some organisations in Khartoum were deemed as an important source of relief. Survivors emphasised the need for continuous accessible, free and frequent sessions. Though the need for well trained personnel was also raised.¹²³

"I need to talk in a safe place like what we did during these two days. Here I feel I am not alone and ashamed of what happened to me. No one here can judge me as we are all subjected to the same brutal violence."¹²⁴

A Survivor from the 3 June 2019 (sit-in protest) in Khartoum reported stigma and re-traumatisation in hospitals and with trauma healing professionals.

"I am aware that trauma healing is a very important tool that can help me, but in Sudan psychological support is very difficult. Our experience with such service is not pleasant. I cannot say all therapists are the same but the majority have no consideration of people's privacy."¹²⁵

She also explained:

"I stopped seeing the therapist after the third session, also, I wasn't comfortable with her, and there was no improvement in my situation, I didn't try again because I wasn't sure about how the psychoanalyst will deal with my information, I don't trust them, for the reason that they can talk about their patients to other people."¹²⁶

There is a constant need for community and solidarity among victims of CRSV, as well as security associated with their gatherings. They desire to share their experiences with each other and are advocating for safe spaces to enable trauma healing.

"I believe compensation and reparations can be given collectively and individually. All people who are affected should demand all together for reparations, there are difficulties to gather all the survivors in one place, first insecurity people are scared to talk about what happened to them. There may be reprisals if they talk so they will not ask for reparations. Also, people are scattered all over the place, some are inside Sudan and others outside Sudan."¹²⁷

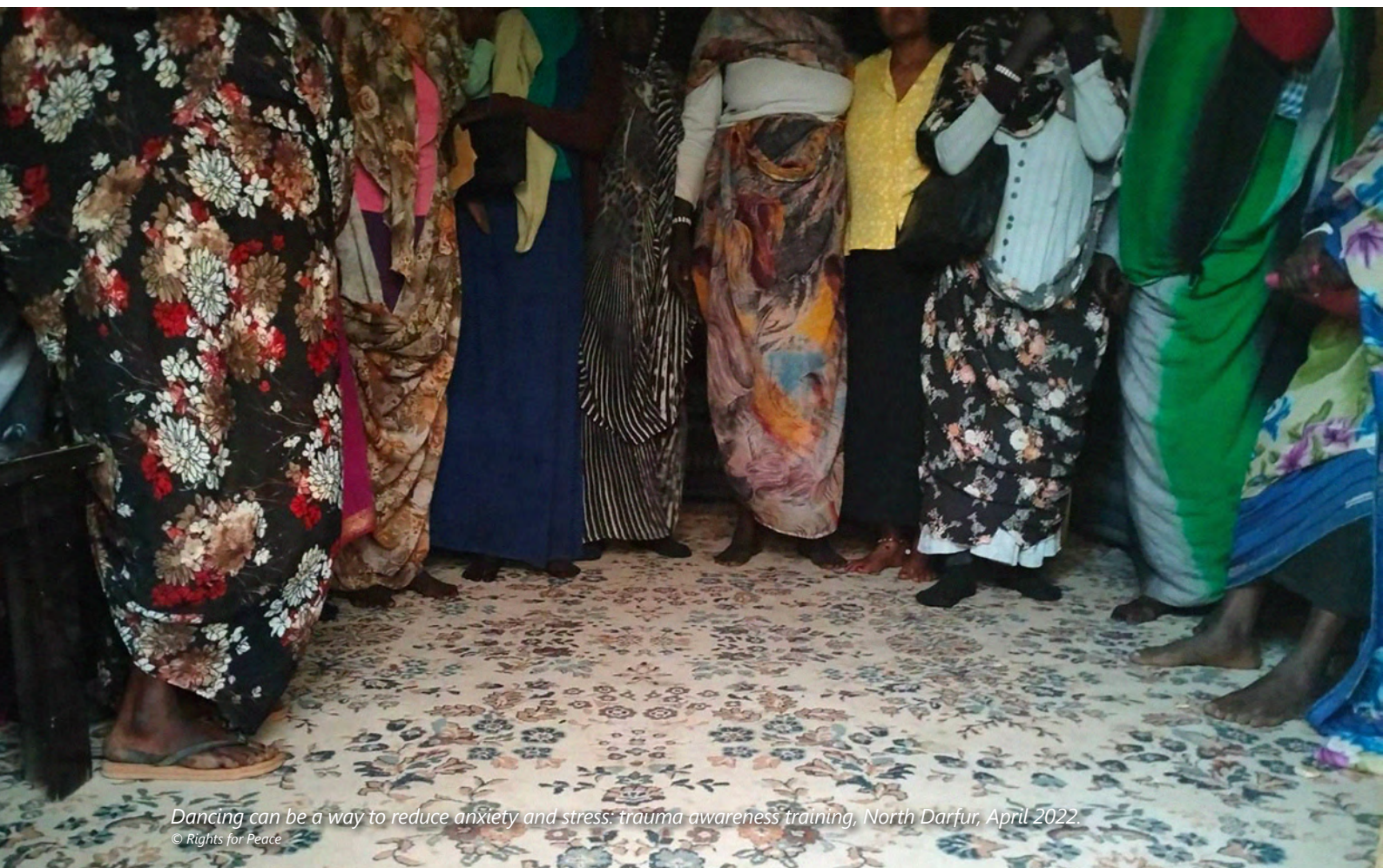
123 Focus group discussion, Darfur (March 2022).

124 Survivor Interview SSI-D02, Darfur (March 2022).

125 Survivor Interview SSI-K01, Khartoum (April 2022).

126 Ibid.

127 Survivor Interview SSI-D02, Darfur (March 2022).



Dancing can be a way to reduce anxiety and stress: trauma awareness training, North Darfur, April 2022.
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4.3.2. Survivors in conflict regions emphasise a range of needs including removing oppressive living conditions imposed by military

In regions such as Darfur and South Kordofan, some survivors have received assistance from non-governmental organisations in IDP camps, however, such assistance remains inadequate. Pressing needs continue to include urgent medical assistance, psychological support, as well as food and education for children affected by CRSV or born of conflict-related rape. Some survivors often view their children, even if born as a result of rape, as the only reason to continue living. They risk being subjected to sexual violence again and strive to protect their children and provide them with a decent life.

Women, who have risen to the role of head of household find it difficult to educate their children. One survivor said it was her desire to see her children go to school and get an education.¹²⁸ Literacy rates are very low in conflict-affected areas, particularly for girls. Some survivors have never attended school, and those who have were generally unable to complete primary school.

Survivors mostly engage in collecting firewood, making bricks, selling alcohol, charcoal or snacks like tea or peanuts. Most survivors express the desire to live in peace and see their lost lands being restored. Survivors whose land was stolen by unknown people want their properties and land back; they want restitution and any squatters to be expelled from their lands.

¹²⁸ Focus group discussion, South Kordofan (March 2022).

A pressing issue raised is the location of military RSF bases in the middle or entrance of IDP camps or villages, resulting in harassment, including repeated sexual violence. The presence of the RSF bases is seen as a form of oppression and causes anguish and pain amongst the survivors, hindering free movement in and out of the camps. They want the camps removed or closed to prevent harassment and facilitate access to collecting firewood and other key amenities.

4.3.3. The need for awareness programmes to reduce stigma to encourage access to services

Some survivors throughout the region reported the inability to seek medical assistance due to embarrassment and stigma. Public awareness campaigns are needed to explain that survivors are victims. The stigma also endangers the lives of survivors. Delays in accessing medical assistance have led to medical complications due to botched abortions and excessive bleeding in addition to lifelong complications. Most survivors reported having miscarriages without the necessary help to go through it.¹²⁹

Awareness programmes targeting men and husbands are particularly needed. Programmes should be formulated to curb abandonment and stigma and to support reconciliation into communities.¹³⁰

"I left my slippers and axe behind, when I arrived at the village, I found the people at the outskirts wondering what happened to me. I didn't tell anyone that the RSF soldier raped me, I denied what happened to me but everyone in the village believes that I was raped."¹³¹

In IDP camps, some survivors complain about the kind of treatment rape victims have received in hospitals. One survivor reported that a doctor refused to treat

her and accept that she suffered from rape. This is corroborated by the existence of conservative views about rape and adultery in hospital; a gender expert working with survivors shared cases of comments made by doctors that have suggested "previous penetration" or "merciful rape" (not full penetration).¹³² Such comments and prejudice have subjected survivors to secondary victimisation.¹³³

Survivors also explain that victims from IDP camps should be able to access free medication during clinic visits as they lack the financial capacity to pay for such services. They say that the process required to establish indigent status is onerous, time consuming and complex, and should be simplified.¹³⁴

In addition to floods, there are also food and water shortages in the IDP camps. Water wells which were previously built by international organisations and that supplied water for free have been taken over by individuals who sell the water at exorbitant prices.¹³⁵ The water shortage and unavailability has also impacted the livelihoods of many survivors. One such survivor who was in the brick making business has indicated that she was forced to stop because water was not available, and now she lacks income.

4.4. Survivors' views and priorities on forms and modalities of reparations

Survivors have called for justice, arrests and arraignment before the ICC, as well as the need for collective and individual reparations. The desire for peace was echoed throughout conversations. Ensuring a livelihood and economic gain was also repeated, as was the need for restitution of lost land and property. Most survivors expressed the desire to give or obtain satisfactory education for their children and complained that their children's lives were being wasted due to their inability to take them to school.

129 Ibid.

130 Survivor Interview SSI-K01, Khartoum (April 2022).

131 Survivor Interview SSI-SK02, South Kordofan (March 2022).

132 Person interviewed did not wish to be named and was referring to survivors in different regions.

133 Survivor Interview SSI-SSK01, South Kordofan (March 2022).

134 Focus group discussion, Darfur (March 2022).

135 Roundtable discussion (August 2022).

4.4.1. Rehabilitation

Survivors expressed the desire to have both individual and collective reparations, especially in terms of trauma healing, rehabilitation centres and treatment sessions. They called for organisations to ensure free access to such services, also increasing their frequency. They wanted treatment sessions to be held in the IDP camps so that numerous CRSV survivors would benefit. Survivors expressed the need to access clinics that are free from stigma, where what happened would be acknowledged without victim-blaming, and where free medication would be accessible without time consuming and tedious processes to prove their financial status.

"Why should IDPs and survivors go through all these complex procurement procedures to have their medication and then not even for free?"¹³⁶

In this respect, they called upon non-governmental organisations to come to their aid and assist them in meeting their basic needs. Survivors want counselling and psychological help delivered in a sensitive and respectful manner. Confidentiality of information disclosed is critical, as is the need for trained personnel who understand and know how to support CRSV victims. As expressed by one of the survivors:

"I noticed also she wasn't qualified because she wasn't understanding what I have been through and the context."¹³⁷

4.4.2. Satisfaction

A number of survivors indicated that justice is the one thing that would support their emotional healing. When asked about forgiveness, most of those interviewed said they would forgive the military and the armed groups that attacked them but not those in command.

"I lived the suffering since the war broke out. Until today I can't sleep well. I suffered a lot. Myself not talking on behalf of any one here, I can forgive Janjaweed or those forces who attacked us, but I will never forgive Omer Al Bashir [former President] and Osman Keber [former North Darfur Governor] and their dogs, who ordered our killings and displaced us from our homes. I swear to God I will never ever forgive them until I see them before the ICC."¹³⁸

Survivors want support to document and investigate what happened to them to secure reparations in a timely and just equitable manner. Legal assistance in the form of legal representation and follow up of cases already reported with authorities to ensure justice and accountability for victims was also highlighted.

An apology as a form of reparation is considered inadequate and not desired: survivors repeatedly state that they want justice, such as through arraignments before the ICC.

4.4.3. Compensation

With regards to compensation, survivors felt that perpetrators may not be able to compensate them, but they believe that the government has a responsibility to provide compensation. They reiterated that monthly sums of money as compensation would only be possible if security in the camps was improved – to prevent theft and harassment. They also believe that discussions surrounding individual and collective reparations will be more effective if survivors are able to meet among themselves and outline appropriate reparations for all.

4.4.4. Guarantees of non-repetition

People in all the regions complain that armed groups sign peace agreements without consulting those affected by the conflict. They maintain that this is not only unfair, but it will never bring lasting peace.

136 Focus group discussion, Darfur (March 2022).

137 Survivor Interview SSI-K01, Khartoum (April 2022).

138 Focus group discussion, Darfur (March 2022).

Survivors in Darfur specifically emphasised the need to remove RSF military bases from the IDP camps. Unless their daily presence in and around the camps ends, there will be no end to CRSV. Survivors see this as an important and immediate guarantee of non-repetition as their presence makes life difficult, exposing survivors to constant sexual harassment and repeated sexual assaults as they go about their daily activities.

Reform of the justice system would also provide a form of satisfaction. Survivors do not trust the justice system given the general context of discrimination against targeted communities, as well as the generalised impunity for the crimes committed against them.

Shortcomings in Sudanese criminal laws and practices contribute to a lack of protection for rape victims.¹³⁹ Deeply engrained prejudices of officials against survivors often result in victim-blaming, or victims not being believed, a lack of privacy for testimonies and a sense that they can be publicly shamed. Additionally, the conditions in police stations do not encourage reporting, given the lack of trained officials or female personnel to handle sexual violence victims. Furthermore, investigations, invasive methods of collecting evidence and the lack of witness and victim protection mechanisms create further obstacles for positive justice outcomes.

Reform of the justice system is needed, particularly with respect to witness and victim protection, and its importance in ensuring justice delivery through reporting mechanisms. In terms of transformative reparations, survivors also highlighted the need for broader legal reforms, to address discrimination, beyond a reform of the justice system which, in their view, is not functioning. Survivors also discussed the need to implement the Disarmament, Demobilisation and Rehabilitation (DDR) programme (this is discussed below in section 4.5.2).

4.4.5. Restitution

Restitution of land is often emphasised. Survivors raise the need for evictions of persons illegally occupying their land, having access to their land again, as well as supporting the re-building of houses so that they can resume life on their land as before.

4.4.6. Collective vs individual reparation

Regarding individual reparation, there is some consistency in survivor's needs. With respect to collective reparation that might repair collective harm, survivors indicated that effective collective reparation can only be provided after consultations are undertaken with survivors and their affected communities to identify appropriate measures.

4.5. Risks and Security Assessment

4.5.1. Reprisals and risks faced by CRSV Survivors

Survivors' greatest fears include being shunned by their community, abandoned by their spouses, and ill-treated by government forces. However, some survivors also recount the severe consequences of interacting with NGOs to narrate their experiences. Government forces have arrested and subjected survivors as well as local activists to torture and imprisonment on account of interaction with human rights groups. One of them said:

"I was threatened by the security, they pointed the guns to my head, and asked me why I talked to a human rights organisation."¹⁴⁰

Reprisals from armed groups is not a new phenomenon to survivors, those associated with human rights groups have had to leave their houses and seek refuge in different locations for their safety. However, their families and children are subjected to violence from forces to extract information about their whereabouts. Girls in particular, have experienced CRSV as a result of their mother's conduct or association with activism.

Lack of victim and witness protection during investigations is another factor which has derailed open consultations with relevant committees. Case in point is the National Committee formed to investigate the Khartoum Massacre of 3 June 2019. Survivors refrained from engaging with the Committee due to safety and confidentiality concerns.

139 Liv Tønnessen, 'From impunity to prosecution? Sexual violence in Sudan beyond Darfur.' NOREF Report, February 2012 (2012) <https://www.cmi.no/publications/4401-from-impunity-to-prosecution> accessed 12 June 2023.

140 Focus group discussion, Darfur (March 2022).

There was a lack of transparency within the process, and lack of clarity of whether the information collected would be used to their benefit or detriment. The composition of the committee is also concerning as some members are from the security forces, such as police and armed forces that included perpetrators.

4.5.2. Mitigating measures

With respect to CRSV in conflict-affected regions, certain mitigating measures, or reforms, were raised by stakeholders as important to facilitate access to reparations:

- Implementation of a DDR programme to ensure arms are seized from individuals who are constantly terrorising them within and outside camps, and the disbandment of spy groups they believe are present within the camps;
- Removal of RSF camps away from IDP camp areas and beefing up security measures in and around camps to enable access to medical health centres and other relevant facilities;
- Reinstatement of international organisations which were previously closed to enable resumption of food and water distribution in IDP camps; and,
- Participation of civil society organisations in reparation programmes through the advocacy for law reform, institutional reform, disarmament programme as well as participation in transitional justice processes.



V. ACCESS TO ASSISTANCE OR INTERIM RELIEF

5.1. Assistance or interim relief available to CRSV victims to date

Interim relief programs implemented so far include the provision of medical care to victims in the humanitarian context and some criminal prosecutions. Throughout the decades of conflict, the government has only prosecuted a few cases of CRSV after the establishment of special courts, following increased pressure from the international community.¹⁴¹ In most cases, victims have been unable to pursue criminal prosecutions. They have not been provided with any relief from the government despite the state's international obligations to provide remedies to broad categories of victims without placing burdens on them to vindicate their rights judiciously.¹⁴² In the few cases where a defendant has been found guilty, the court has ordered compensation to victims – though this has generally not been received by them.¹⁴³

5.1.1. Healthcare

Survivors of CRSV in the “conflict regions” such as Darfur, South Kordofan, or Blue Nile face difficulties in accessing medical assistance due to a lack of health facilities or fear of stigmatisation.

The United Nations Population Fund (UNFPA) has trained local service providers on the clinical management of rape and distribution of rape kits, including unwanted pregnancy emergency pills, through the Ministry of Health.¹⁴⁴ However, the scale and reach of the assistance is limited. According to UNAMID, in the few cases where victims have received medical treatment from the scheme, “the local health services could not provide specialized medical treatment, such as Post Exposure Prophylaxis (PEP) against HIV infection, preventative drugs against Sexually Transmitted Infections (STIs), and unwanted pregnancy emergency pills.”¹⁴⁵ Access to post-exposure prophylaxis remains limited to major hospitals.¹⁴⁶ Given that most of these treatments are time sensitive, victims are exposed to risks of long-term and chronic infections and unwanted pregnancy.

Médecins Sans Frontières has been at the forefront of medical assistance in the conflict regions including Darfur and was reportedly the only medical provider available to victims in these areas. Between October 2004 and the first half of February 2005, Médecins Sans Frontières doctors treated almost 500 rape victims in Darfur – a number higher than what was recorded by UNAMID from 2004-5.¹⁴⁷

141 The special criminal court for the events in Darfur, together with committees that investigate the commission of rape, was set up in 2004/5. However, by October 2005, the courts had only heard six cases, and the numbers continued to decrease. The panel of experts in Sudan claims there is a significant gap between initiatives set up to respond to human rights violations and their actual implementation in Sudan. UN Security Council, ‘Second report of the Panel of Experts established pursuant to paragraph 3 of resolution 1591 (2005) concerning the Sudan’ S/2006/250 (19 April 2006), paras. 162-163.

142 OHCHR, ‘Rule-of-Law Tools for Post-conflict States: Reparations Programmes’ HR/PUB/08/1 (2008) chapter 1 <https://www.refworld.org/docid/47ea6ebf2.html> accessed 7 June 2023.

143 For example, on 5 November 2014, a 25-year-old Sudanese armed forces soldier was found guilty of abducting and raping a 13-year-old girl in February 2014 and sentenced to 10 years imprisonment with a court fine of 3,000 SDG (around 4.99 USD) and 2,000 SDG compensation to the victim (around 3.33 USD). On 18 September, the Special Court for Darfur Crimes in Al Fashir delivered a final judgement on the case of four persons accused of attacking and robbing UNAMID personnel and raping a female police officer on 10 April in Al Fashir. Three were found guilty of armed robbery, sentenced to three years’ imprisonment, and ordered to jointly pay 6,700 USD to the victims of the rape and robbery. See UN Security Council, ‘Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur S/2014/852 (26 November 2014) para. 56 https://unamid.unmissions.org/sites/default/files/s2014852_of_26_november_2014.pdf accessed 12 June 2023.

144 UNAMID and OHCHR, ‘Human Rights Situation in Darfur 2013’ (2013) para. 69 https://www.ohchr.org/sites/default/files/Documents/Countries/SD/UNAMID_OHCHR_situation_Darfur2013.pdf accessed 12 June 2023.

145 Ibid.

146 UN Security Council, ‘Conflict-related sexual violence. Report of the United Nations Secretary General’, S/2021/312 (30 March 2021) para 54 <https://digitallibrary.un.org/record/3907256?ln=en> accessed 7 June 2023.

147 Médecins Sans Frontières, ‘The Crushing Burden of Rape: Sexual Violence in Darfur’ (8 March 2005).

Victims more readily approach international NGOs like Médecins Sans Frontières for medical support than report cases due to the stigmatising, complicated and discriminatory processes for filing cases. While the medical-legal report 'Form 8' used by Sudan Police to obtain a medico-legal opinion with respect to a criminal investigation had been banned by the Ministry of Health in 2018,¹⁴⁸ in practice, survivors are still required to acquire 'Form 8' to access justice or health care in relation to sexual violence.¹⁴⁹ Many survivors cannot obtain 'Form 8' from authorities, because a fee is demanded. To this effect UNAMID has facilitated the distribution of Form 8 in police stations in Darfur in the past, and the Violence Against Women Unit at the Ministry of Social Welfare has held a consultative workshop in February 2023, seeking to improve the form in a manner that does not victimise survivors.

With regard to treatment for mental health concerns, there is a general lack of awareness regarding psychosocial support and what benefits it could have. Limited legal support and legal aid is also a challenge faced by survivors. Medical, legal and psychosocial services are only available in a few urban areas.¹⁵⁰

5.1.2. Legal assistance and access to justice

The provision of legal assistance is generally inadequate in Sudan.¹⁵¹ The Ministry of Justice provides free legal aid to accused persons through law offices, though the provision is said to be inadequate, mainly

focused on homicide and not sexual violence crimes, and in any case aimed at supporting the rights of the accused. Staff at one of the law offices providing legal aid services for GBV generally indicated the need for an amendment of Article 204 of the Code of Criminal Procedure. This amendment would have the purpose of making sure that legal aid provided by the government through the office of the Attorney General is accessible to survivors of sexual violence crimes and has a broader geographical coverage, as it is mainly available in Khartoum and regional capitals.¹⁵²

Nearly all survivors of CRSV expressed frustration with the judicial system. In one instance, a victim stated that she was not seeking justice because:

“police are part of the problem.”¹⁵³

Intergovernmental organisations that are mandated to focus on women's protection and access to justice in their missions, also report that they face obstacles in exercising their mandates – insinuating that this is because of government obstruction or pressure.¹⁵⁴

The challenges around reporting CRSV are added to ordinary challenges surrounding sexual violence reporting in Sudan, given conservative laws and attitudes surrounding rape, which can result in adultery charges being brought against the victim if she reports sexual violence. In some instances, rape is resolved through traditional justice mechanisms culminating in forced marriage between the survivor and perpetrator.¹⁵⁵

148 'Gov't bans police 'Form 8'', *Eye Radio* (27 June 2018) <https://www.eyeradio.org/govt-bans-police-form-8/> accessed 7 June 2023.

149 UNAMID and OHCHR, 'Human Rights Situation in Darfur 2013' (2013) para. 66.

150 UN Security Council, 'Conflict-related sexual violence. Report of the United Nations Secretary General', S/2021/312 (30 March 2021) para 54.

151 The response of law enforcement institutions has been deficient, and psychosocial support for survivors has been inadequate. When victims reported cases to the police, they were often victimised by the system itself. See UN Security Council, 'Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur' S/2018/154, para. 12 <https://digitallibrary.un.org/record/1474592?ln=en> accessed 12 June 2023.

152 Discussion with a female lawyer at one of the law offices that provides legal aid services for GBV and also generally.

153 Human Rights Watch, *Five Years On. No Justice for Sexual Violence in Darfur* (April 2008), p. 18 https://www.hrw.org/sites/default/files/reports/darfur0408_1.pdf accessed 12 June 2023.

154 Ibid pp. 29-32; Interviews, South Kordofan (March 2022).

155 See "UN's Guterres: 'Rape remains prevalent in less dangerous Darfur'" *Dabanga* (17 April 2018) <https://www.dabangasudan.org/en/all-news/article/un-s-guterres-rape-remains-prevalent-in-less-dangerous-darfur> accessed on 22 June 2022.



A camp for internally displaced persons (IDPs) in Khor Abeche, South Darfur, attacked on 22 March 2014.
© Mubarak Bako / UNAMID



VI. AVENUES FOR REPARATIONS

6.1. International obligations for reparation

6.1.1. Regional human rights treaties

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

The Republic of Sudan is party to the African Charter on Human and Peoples' Rights,¹⁵⁶ which it ratified in 1986.¹⁵⁷ Articles 5 and 6 of the Charter specifically protect human dignity, the right to liberty and security of a person. Exploitative and degrading treatment are prohibited.

The Cabinet of the Transitional Government of Sudan voted to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) in April 2021, but there has been no further progress since.

Article 3(4) of the Maputo Protocol directs parties to adopt and implement appropriate measures to ensure:

- The protection of every woman's right to respect for her dignity; and,
- The protection of women from all forms of violence, particularly sexual and verbal violence.

Article 11 of the Maputo Protocol mandates state parties to respect and ensure respect for the rules of international humanitarian law applicable in armed conflicts with respect to women. It further provides for protection of women irrespective of

the population to which they belong. Articles 22(b) and 23(b) also provide for protection of elderly and disabled women. Contrary to this, discrimination and rape against women from non-Islamic regions in Sudan is prevalent and rape is used as an instrument of subjugation and torture.¹⁵⁸

According to the Maputo Protocol, state parties should also protect women seeking asylum, refugees, returnees and IDPs against all forms of violence, including rape and other forms of sexual exploitation.¹⁵⁹ They are also expected to set up an accountability mechanism for perpetrators who engage in such acts, which should be recognised as war crimes, genocide and crimes against humanity.

AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

Sudan is also a party to the African Charter on the Rights and Welfare of the Child.¹⁶⁰ Article 3 prohibits discrimination in the application of the Charter. Article 22 calls on state Parties to respect rules of international humanitarian law applicable in armed conflicts.

THE AFRICAN UNION TRANSITIONAL JUSTICE POLICY

The African Union Transitional Justice Policy, states that:

"[transitional justice] processes should adopt measures that protect victims of sexual and gender-based violence from social and cultural stigma and ameliorate procedural and evidentiary requirements that militate against their effective prosecution."¹⁶¹

156 Organisation of African Unity (OAU), African Charter on Human and Peoples' Rights ("Banjul Charter"), adopted 1 June 1981, entered into force 21 October 1986, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

157 Sudan ratified the treaty on 18 February 1986 and deposited its instrument of ratification on 11 March 1986 https://au.int/sites/default/files/treaties/36390-sl-african_charter_on_human_and_peoples_rights_2.pdf accessed 7 June 2023.

158 This is prevalent in areas like Darfur where black Sudanese mostly reside.

159 Article 11.3, Maputo Protocol.

160 OAU, African Charter on the Rights and Welfare of the Child, adopted 1 July 1990, entered into force 29 November 1999. Sudan ratified/adhered to the treaty on 30 July 2005 and deposited the instrument of ratification/adherence on 18 July 2008. Sudan does not consider itself bound <https://au.int/en/treaties/african-charter-rights-and-welfare-child> accessed 7 June 2023.

161 African Union, The African Union Transitional Justice Policy, adopted February 2019, para 103.

The policy also stipulates that states should adopt urgent measures to address the psychosocial, medical and livelihood needs of survivors of SGBV, including educational opportunities for child victims. It also provides for holistic approaches to reparations for SGBV crimes, to address the societal structures and conditions which facilitate such violence. In Sudan's case, deeply entrenched norms on the treatment of women have generally contributed to the prevalence of SGBV, a case for transformative reparations can therefore be made to address laws and societal structures that have enabled the ill-treatment of women.

THE ICGLR PROTOCOL ON THE PREVENTION AND SUPPRESSION OF SEXUAL VIOLENCE AGAINST WOMEN AND CHILDREN (2006)

Sudan is a member of the International Conference on the Great Lakes Region (ICGLR), an intergovernmental organisation of the countries in the African Great Lakes Region. It is bound by the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children, which obliges Sudan to provide protection for women and children against impunity for sexual violence, and calls for the criminalisation of sexual violence and the punishment of perpetrators under international criminal law.¹⁶²

Member states are encouraged to ratify and implement conventions that champion women's rights including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Maputo Protocol.¹⁶³ It further provides for the prosecution of persons found guilty of sexual violence to the territory of a requesting member state for prosecution. It calls upon member states to create special facilities under a reconstruction

and development fund to cater for social and legal assistance, medical treatment, counselling, training, rehabilitation, and reintegration of survivors.¹⁶⁴

THE NIAMEY GUIDELINES ON COMBATING SEXUAL VIOLENCE AND ITS CONSEQUENCES IN AFRICA (2017)

The 'Guidelines on Combating Sexual Violence and its Consequence in Africa' (Niamey Guidelines) provide guidance and support for African Union member states to "*effectively implement their commitments and obligations to combat sexual violence and its consequences.*"¹⁶⁵ It advises states on the adoption of relevant measures to protect and support victims of sexual violence including legal assistance, medical assistance (including access to a forensic medical examination), sexual and reproductive health care and care for the prevention and treatment of HIV.¹⁶⁶ It also advocates for psychological and financial support, housing assistance, training, education and support in finding employment.¹⁶⁷ It provides for the establishment of one-stop centres, shelters and protection orders.¹⁶⁸ Additionally, it calls for appropriate training to ensure proper care for the victims of sexual violence.¹⁶⁹

6.1.2. International human rights treaties

Sudan expressed its intention to ratify the Convention on the Elimination of all forms of Discrimination Against Women, which bestows responsibility on state parties for acts and omissions by its organs and agents that constitute GBV against women. CEDAW requires state parties to, *inter alia*, investigate, prosecute, and apply appropriate legal or disciplinary sanctions as well as provide reparation in all cases of GBV.¹⁷⁰

162 International Conference on the Great Lakes Region, 'Protocol on the Prevention and Suppression of Sexual Violence against Women and Children' (30 November 2006) <https://icglr.org/wp-content/uploads/2022/06/Protocol-on-the-Prevention-and-Suppression-of-Sexual-Violence-Against-Women-and-Children.pdf> accessed 7 June 2023. According to article 7 of the Protocol, it is an integral part of the Pact on Security, Stability and Development in the Great Lakes Region and members are bound to it.

163 Protocol on the Prevention and Suppression of Sexual Violence against Women, article 3(4).

164 Ibid, article 6(8).

165 African Commission on Human and People's Rights, 'Guidelines on Combating Sexual Violence and its Consequences in Africa' (November 2017) p. 6 <https://achpr.au.int/en/node/848> accessed 7 June 2023.

166 Ibid, guideline 24.

167 Ibid.

168 Ibid, guidelines 25, 26 and 27.

169 Ibid, guideline 26.

170 Committee on the Elimination of Discrimination against Women, 'General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19' CEDAW/C/GC/35 (26 July 2017), paras. 23-24 <https://digitallibrary.un.org/record/1305057?n=en> accessed 8 June 2023.

Sudan joined the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearances (ICPPED) without substantive reservations on 10 August 2021, by depositing the required instruments of ratification with the UN Secretary-General. Sudanese individuals cannot, however, bring individual complaints against the government of Sudan to the Committee Against Torture or the Committee on Enforced Disappearances, as Sudan has not made the necessary declaration under Article 22 nor accepted the individual complaints procedure under Article 31 of the ICPPED.¹⁷¹ Both treaties entered into force for Sudan on 10 September 2021.

Sudan has also ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1986, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1977, and the Convention on the Rights of the Child (CRC) in 1990. Regarding the CRC, amendments made to the Penal Code of 1991 during the transition government in 2020 have now replaced the definition of adult with *“every person who has completed 18 years of age”*.¹⁷² The age of responsibility has also increased to 12 years of age.¹⁷³

Article 39 of the Convention on the Rights of the Child specifically provides that state parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflicts. Such recovery and reintegration should, according to the CRC, take place in an environment which fosters the health, self-respect, and dignity of the child. Sudan has also ratified the Optional Protocol to the Convention on

the Rights of the Child on the involvement of children in armed conflict in 2005 and the Optional Protocol to the Convention on the Rights of the Child, in 2004 on the sale of children, child prostitution and child pornography. The only individual complaints procedure Sudan has accepted is for the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol that were both ratified in 2009.¹⁷⁴

6.1.3. International legal frameworks specific to Sudan

6.1.3.1. INTERNATIONAL COMMISSION OF INQUIRY ON DARFUR (2004)

Following the widely reported atrocities in Darfur that led to largescale internal displacement and an outflow of refugees into the neighbouring country of Chad between 2003 and 2005, the UN Security Council iterated numerous demands to the parties to the conflict to refrain from violence against civilians during the course of 2004.¹⁷⁵ In September 2004, it has threatened sanctions against Darfur due to lack of progress in protecting the civilian population and disarming the Janjaweed. The Security Council specifically invoked the Genocide Convention – the first time in any UN Security Council resolution. It also established a Commission of Inquiry, headed by former ICTY Judge Antonio Cassese to investigate human rights violations and breaches of humanitarian law.¹⁷⁶

The Commission was able to visit Sudan twice and focused on crimes committed between February 2003 and January 2005. While the Commission’s final Report did not conclude that the Government of Sudan acted with genocidal intent, it did conclude that some individuals, including Government Officials, may have committed crimes with genocidal intent, and that these required determination by a competent court.¹⁷⁷

171 REDRESS, ‘In Historic Move, Sudan Ratifies Key International Treaty on Torture, Joining 171 Other States’ (12 August 2021) <https://redress.org/news/in-historic-move-sudan-ratifies-key-international-treaty-on-torture-joining-171-other-states/> accessed 8 June 2023. The transitional government entered reservations concerning dispute resolution and the jurisdiction of the International Court of Justice (ICJ) for both UNCAT and ICPPED.

172 Article 3 of the Penal Code of 1991, as amended in 2020.

173 Article 9 of the Penal Code of 1991, as amended in 2020.

174 OHCHR, Ratification by Country or Treaty, ‘Treaty Body Database’ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=165&Lang=EN accessed 15 August 2022.

175 UN Security Council, Resolution 1547 (2004), S/RES/1547 (2004) (11 June 2004); UN Security Council, Resolution 1556 (2004), S/RES/1556 (2004) (30 July 2004); UN Security Council, Resolution 1564 (2004), S/RES/1564 (2004) (18 September 2004); UN Security Council, Resolution 1574 (2004), S/RES/1574 (2004) (19 November 2004).

176 UN Security Council, Resolution 1564 (2004), S/RES/1564 (2004) (18 September 2004) <http://unscr.com/en/resolutions/1564> accessed 8 June 2023.

177 International Commission of Inquiry on Darfur, ‘Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General’ (25 January 2005).



A child collects bullets from the ground in Rounyn, North Darfur, 2011.

© Albert Gonzalez Farran / UNAMID

6.1.3.2. THE INTERNATIONAL CRIMINAL COURT

Sudan is not a state party to the International Criminal Court (ICC) Rome Statute. Despite the historic announcement on 3 August 2021 that Sudan's cabinet had voted to ratify the Rome Statute, the decision was not approved by Sudan's Sovereign Council (the joint military-civilian body that was the country's highest transitional authority) and so ratification remains incomplete. However, the ICC may exercise its jurisdiction over crimes listed in the Rome Statute committed on the territory of Darfur, or by its nationals, from 1 July 2002 onwards as a result of the

United Nations Security Council referring the situation in Darfur to the ICC Prosecutor in Resolution 1593 (2005) on 31 March 2005.¹⁷⁸

The ICC Prosecutor started his investigation into crimes committed in Darfur in 2005 and has brought several cases against Janjaweed leaders, government officials and leaders of the Resistance Front, for genocide, war crimes and crimes against humanity. Former President Omar Al Bashir was indicted in 2009 for five counts of crime against humanity and two of war crimes, and in 2010 for three counts of genocide.¹⁷⁹

¹⁷⁸ UN Security Council, Resolution 1593 (2005), S/RES/1593 (2005) (31 March 2005) <https://digitallibrary.un.org/record/544817> accessed 6 June 2023.

¹⁷⁹ See ICC, 'Case Information Sheet: *The Prosecutor v. Omar Hassan Ahmad Al Bashir*', ICC-PIDS-CIS-SUD-02-006/18)Eng (July 2021) <https://www.icc-cpi.int/sites/default/files/CaseInformationSheets/AlBashirEng.pdf>

The charges include the crimes of murder, extermination, forcible transfer of the population, torture, rape, attacks against civilians and pillaging, allegedly committed at least between 2003 and 2008 in Darfur.¹⁸⁰ Al Bashir had already been convicted of currency offences, and had been given a custodial sentence by a Khartoum court; he remains incarcerated in the notorious Kober prison in Khartoum North, where many of his opponents were detained and tortured during the 30 years of his repressive regime.

The ICC issued arrest warrants against:

- Ahmed Haroun (former Minister for Humanitarian Affairs), currently in Kober prison for charges related to undermining the constitutional system and organising and executing the 1969 Islamic movement coup that ruled the country for more than 30 years;
- Ali Abdelrahman (Ali Kushayb), former commander of the Janjaweed,
- Bahar Idriss Abu Gerda, commander of JEM, charged in relation to attacks against African Union Peacekeepers though the charges were dropped due to insufficient evidence;
- Abdel Raheem Muhammad Hussein, former Sudanese interior minister, indicted for war crimes and crimes against humanity, currently still at large.
- Abdallah Banda Abakaer, commander of Justice and Equality Movement (JEM) currently at large; and,
- Ali Kushayb, a former Janjaweed commander, currently being tried at the ICC.

In February 2020, the Sudanese authorities agreed that Omar Al Bashir and others indicted for war crimes and genocide by the ICC would be transferred to The Hague to face justice.¹⁸¹ Ali Kushayb was transferred into the ICC's custody on 9 June 2020 after surrendering himself voluntarily in the Central African Republic, though Omar Al Bashir currently remains in custody in Khartoum on the basis of corruption and other charges.¹⁸²

On 5 April 2022, the trial of Ali Kushayb began at the ICC in The Hague.¹⁸³ The trial is the first to address atrocities committed in Darfur in the early 2000s, and the first to emerge from a UN Security Council referral. No other high-level perpetrator of the crimes committed in Darfur has been prosecuted, whether in a Sudanese or international court. Given the military coup in October 2021, and the outbreak of conflict on 15 April 2023, there is little prospect of further cooperation between the Government of Sudan and the ICC. If the current conflict were to end, it is doubtful that a *de facto* government would cooperate with the ICC any further, as both parties include leaders that are accused of committing human rights atrocities in Darfur.

Ali Kushayb is charged with 31 counts of war crimes and crimes against humanity allegedly committed between August 2003 and at least April 2004 in Darfur. These include murder, pillaging, rape, torture, other inhumane acts (with reference to forced nudity) and outrages against personal dignity as crimes against humanity or war crimes.¹⁸⁴

Between 15 and 16 August 2003, the Janjaweed and Government Forces including Ali Kushayb, allegedly entered Koddom, which was burned to the ground. They also attacked Bindisi where they allegedly raped 16 women and girls, some of whom had fled into the jungle. During the attack, victims were restrained, raped

180 Ibid.

181 'Sudan Cabinet: 'Unanimous decision' to hand Darfur war crimes accused to ICC, *Dabanga* (August 2021) <https://www.dabangasudan.org/en/all-news/article/sudan-cabinet-unanimous-decision-to-hand-darfur-war-crimes-accused-to-icc> accessed 8 June 2023.

182 Khartoum court convicts Sudan's ousted dictator Al Bashir of corruption', *Dabanga* (14 December 2019) <https://www.dabangasudan.org/en/all-news/article/khartoum-court-convicts-sudan-s-ousted-dictator-al-bashir-of-corruption> accessed 8 June 2023. Al Bashir was convicted on charges of corruption and currency irregularities and thereafter sentenced to two years in a correctional facility. He was being held at Kober prison during his trial in 2019. His sentence was to begin after determination of a pending case where he is charged with killing protesters during the rallies that led to his ouster. See 'Sudan's ousted president Bashir charged in the deaths of protesters' *France24* (13 May 2019) <https://www.france24.com/en/20190513-sudan-omar-bashir-charged-killing-protesters-prosecutor-justice-army-military-council> accessed 8 June 2023.

183 ICC, 'Abd-Al-Rahman Case', ICC-02/05-01/20 <https://www.icc-cpi.int/darfur/abd-al-rahman> accessed 8 June 2023.

184 ICC, 'Decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')' ICC-02/05/01/20 (9 July 2021, corrected version 23 November 2021) https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_10734.PDF accessed 8 June 2023.

and verbally abused. During the course of the attack the Janjaweed used hate speech epithets such as “slave” and “servant”, and made derogatory references linked to skin-colour, and stated that the Government of Sudan had sent them to kill every black person.¹⁸⁵

Some of these women are said to have been raped with their clothing stuffed in their mouths.¹⁸⁶ Some of them were raped in full view or hearing of other detained persons. One woman was reportedly killed after resisting attempted rape.¹⁸⁷ The Janjaweed are reported to have raped women in public, in the open air, in front of husbands, relatives or the wider community.¹⁸⁸

Victims of crimes allegedly committed by the Kushayb will have the opportunity to testify in the trial, to share their views, concerns, and experiences through a common legal representative authorised by the ICC. Their accounts are available in the submissions of the Legal Representative of Victims in the case.¹⁸⁹ Victims can apply to the court for reparations if Kushayb is convicted of any of the charged crimes. The ICC judges will decide which reparations are appropriate based on the submissions.

REPARATION FOR CRSV SURVIVORS THROUGH THE INTERNATIONAL CRIMINAL COURT

Reparation through the ICC’s cases is possible but will require support to victims for them to be able to file their claims. There is currently only one ongoing case - that of Ali-Kushayb. If convicted, victims must show that they were subjected to the specific incidents and crimes enumerated in the 31 counts against Ali-Kushayb that concern attacks in roughly four locations in Central Darfur in 2002-3.

Benefits of the ICC’s reparation scheme is the existence of the ICC Trust Fund for Victims, responsible for implementing and funding awards

where the convicted person is unable to foot the bill. Schemes have included individual as well as collective reparations and are generally implemented in a sensitive manner, with particular emphasis on the security of victims. The ICC has in the past been beset with significant delays in implementing reparation orders, so expectations should be managed. Cases can take several years including the trial, appeals and reparations phase. Furthermore, implementation of reparation programmes in Sudan by the ICC Trust Fund for Victims may also face specific security or access challenges, especially due to the non-cooperation of previous governments with the ICC.

6.2. National Legal Frameworks relevant to reparation for CRSV

6.2.1. Peace Agreements and Processes

THE DARFUR PEACE PROCESS (2006, 2011 AND 2020 AGREEMENTS)

Several Peace Agreements were signed between the Government of Sudan and Darfur-based rebel groups in 2006, 2011 and 2020 with the intention of ending the conflict in Darfur.

2006 Darfur Peace Agreement (DPA)

On 5 May 2006, the Sudanese government signed the Darfur Peace Agreement¹⁹⁰ with one of the rebel groups in Sudan’s western Darfur region (Sudanese Liberation Army - led by Minni Minnawi). Within a year, the agreement was seen as a failure. The security situation deteriorated and rebel groups proliferated, leading to further Security Council resolutions. Nevertheless, some elements of the Agreement are still relevant, including the provision for a Compensation Commission.

185 Ibid, para 47, count 6: Other inhumane acts as crimes against humanity; count 7: Outrages upon personal dignity as war crimes.

186 Ibid, para. 43.

187 Ibid, para. 46, counts 8-9: Rape as a crime against humanity and a war crime.

188 Ibid, para. 47.

189 For full accounts see: The Common Legal Representative of Victims – ICC, ‘Public Redacted Version of “Second Corrigendum to ‘Common Legal Representative of Victims’ Trial Brief’ ICC-02/05-01/20 (11 April 2023) paras. 114, 121 and 158 <https://www.icc-cpi.int/court-record/icc-02/05-01/20-914-corr2-red> accessed 8 June 2023.

190 Darfur Peace Agreement (2006). Also known as the ‘Abuja Agreement’ <https://peacemaker.un.org/node/535> accessed 8 June 2023.

Article 21 of the Darfur Peace Agreement provided for reparation under the rubric of “*compensation for war-affected persons*”.¹⁹¹ Article 50 provided for a Darfur Compensation Commission under the Transitional Darfur Regional Authority (TDRA). The Commission’s role was:

*“to deal, without prejudice to the jurisdiction of courts, with claims for compensation by people of Darfur who have suffered harm, including physical or mental injury, emotional suffering or human and economic losses, in connection with the conflict.”*¹⁹²

Whilst the primary responsibility to implement the DPA and compensation ultimately resides with the Government of Sudan, UNAMID was mandated to provide technical assistance on addressing property and land disputes and compensation issues.

2011 Doha Document for Peace in Darfur (DDPD)¹⁹³

The Doha Document for Peace in Darfur (DDPD) was finalised at the All Darfur Stakeholders Conference in May 2021. On 14 July 2011, the Government of Sudan and the Liberation and Justice Movement signed a protocol committing themselves to a framework for a comprehensive peace in Darfur. The DDPD specifies that:

*“[a]ll victims of conflict, including IDPs and refugees, shall have the right to financial compensation for the harm and losses they have incurred as a result of the conflict, including loss of lives, physical injury, mental and emotional suffering and economic losses.”*¹⁹⁴

Article 16, para 106, provides for compensation to the people of Darfur to address grievances resulting from losses in lives and destruction, seizure, or theft of properties as well as the subsequent suffering. Although sexual violence, especially CRSV is not expressly mentioned, the latter part of this article provides for “subsequent suffering”, which could,

through advocacy be instrumentalised to include suffering as a result of CRSV. Furthermore, Article 55, para 280 states:

*“[t]he right of victims to access mechanisms of justice and redress, in particular the right to an adequate, effective and prompt remedy and/or reparation for violations of international human rights law and international humanitarian law.”*¹⁹⁵

Article 56, para 298 provides for coordination between the National Judicial system and various commissions or special committees pertaining to blood money or compensation and other means of reconciliation. Article 57, para 301 provides for the compensation of all victims including IDPs and refugees, who have suffered loss or damage, including loss of life, physical injury, mental harm and emotional suffering as a result of the Darfur conflict. The timeline provided for payment is two years from the date of the assessment of the damage. Payment is to be made in one instalment whenever possible, or in two instalments, as long as it doesn’t exceed two years from the date of the assessment of the damage.

The former governments’ strategy was to enter into peace negotiations with any armed group that was willing to do so, which explains the number of peace agreements with different armed groups in different regions. South Kordofan and Blue Nile regions do not have equivalent frameworks. SPLM-N Malik Agar and Al Hilu did not enter into peace negotiations with the government, and only recently SPLM-N Agar faction signed the Juba Peace Agreement.

2020 Juba Peace Agreement

On 31 August 2020, after months of negotiations following the 2019 revolution and the establishment of the Transitional Government, a Peace Agreement was signed by the Government of Sudan and the Sudan Revolutionary Front (an alliance five armed groups including the Justice and Equality Movement and Sudan Liberation Army in Darfur, groups in Blue Nile and South Kordofan). The Juba Peace Agreement is divided into ten chapters.

¹⁹¹ Ibid, article 21.

¹⁹² Ibid, para 200.

¹⁹³ The DDPD addresses the root causes of the conflict and its consequences, including Power Sharing, Wealth Sharing, Human Rights, Justice and Reconciliation, Compensation and Return, and Internal Dialogue among others. See https://unamid.unmissions.org/sites/default/files/ddpd_english.pdf accessed 8 June 2023.

¹⁹⁴ Doha Document for Peace in Darfur (31 May 2011) Article 43, para 225.

¹⁹⁵ Ibid.

The preamble recognizes the state's role in reforming institutions and public service, including enforcing measures of transitional justice, restoration of rights and reparations. The first Chapter relates to national issues, including constitutional provisions and federal structure. The Agreement also entailed an amendment to the Constitutional Declaration, which now reads that Sudan is a federal state. Subsequent chapters mostly constitute bilateral agreements with specific armed groups relating to different regions.

Chapter Two relates to Darfur and constitutes the 'Darfur Agreement between the Transitional Government of Sudan and Darfur Parties to Peace'. The Darfur Chapter (or Agreement) includes eight sub-chapters (Protocols), which in turn deal with specific topics such as power sharing, wealth sharing, accountability, compensation and reparations, internally displaced persons, etc.

Chapter Three, entitled *Justice, Accountability and Reconciliation Protocol*, provides for the establishment of a Truth and Reconciliation Commission, affirms full cooperation with the International Criminal Court and provides for the establishment of a Special Court for Darfur Crimes since 2002 within 90 days of signing the Agreement. It also empowers traditional justice mechanisms to deal with crimes that fall outside the jurisdiction of the ICC, Special Court for Darfur, national judiciary or Truth and Reconciliation Commission.

Chapter Four, entitled Compensation and Reparations Protocol, affirms victims' rights to unhindered access to effective justice and redress mechanisms, especially the right to immediate redress for injustices and to compensation.¹⁹⁶

Its General Principles, paragraphs 1 and 2 state that:

1. *"Victims of the conflict in Darfur shall have the right to have unimpeded access to effective justice and redress mechanisms, including the right to an adequate, effective, and prompt remedy or reparation for damages arising from the conflict in Darfur and for violations of international human rights law and international humanitarian law."*

2. *"Victims of the conflict in Darfur shall have the right to reparations in the form of compensation, restitution, rehabilitation, and/or satisfaction, and commemoration."*

Paragraph 12 establishes a Compensation and Reparations Fund, which shall include 40% women in its functional structure, and will be able to make its own rules, procedures and decision-making processes.

The Compensation and Reparations Fund will have the competency to implement resolutions on the dues and compensation owed by relevant parties. The Fund will be able to award monetary compensation, medical and psychological rehabilitation, legal assistance and social services, creating public spaces, memorials, museums and other places for memorialisation and any other traditional forms of compensation.

The Fund is to cooperate and coordinate with other commissions established pursuant to this Agreement. These include the Commission for the Return of IDPs and Refugees, the Development and Reconstruction Commission, the Lands and Hawakeer Commission, the Truth and Reconciliation Committee, the Darfur Special Court for War Crimes, and the mechanisms of traditional justice.

The 25 October 2021 coup affected the implementation of the Juba Peace Agreement as the military dissolved the Transitional Government that was overseeing the process. Nonetheless, on 19 February 2023, following a high-level evaluation workshop on the implementation of the Peace Agreements, the signatories to the Juba Peace Agreement signed a new Implementation Matrix, which gave new deadlines and showed some continued commitment to its implementation. This last effort is currently in suspense since the war broke out between the Government of Sudan and the Rapid Support Forces on 15 April 2023.

The Juba Peace Agreement – Darfur track¹⁹⁷ is not sufficiently well known within Darfur. Sensitisation about its contents is still needed, even in the current difficult climate.

¹⁹⁶ Para 8.9, Juba Peace Agreement, signed 3 October 2020 (Official English translation) <https://constitutionnet.org/sites/default/files/2021-03/Juba%20Agreement%20for%20Peace%20in%20Sudan%20-%20Official%20ENGLISH.PDF> accessed 8 June 2023.

¹⁹⁷ Juba Peace Agreement (B). Framework Agreement between the Government of Sudan and the Darfur Track (Official English version) <https://www.peaceagreements.org/viewmasterdocument/2374> accessed 8 June 2023.

6.2.2. Constitutional frameworks relevant to CRSV

2019 CONSTITUTIONAL DECLARATION

The temporary *de facto* constitution of Sudan is the Constitutional Declaration, signed on 4 August 2019 by the Transitional Military Council (TMC) and the Forces for Freedom and Change (FFC) alliance, for a four-year transitional period, repealing all other constitutions.¹⁹⁸ The Constitutional Declaration does not contain any provisions directly protecting victims of CRSV, although there are related provisions under Chapter 14, in the Bill of Rights and Duties. These provisions include Section 43 which protects the “*fundamental right to life, dignity and personal safety*” as well as Section 50, which protects against torture, inhumane or degrading treatment and “*the debasement of human dignity*.”¹⁹⁹

In order to enhance the status of women and their rights, Article 68(3) of Chapter 15 ensured the implementation of SC Resolution 1325.²⁰⁰

Section 67(g) of the Constitutional Declaration also calls for implementing transitional justice and accountability in national and international courts for crimes against humanity and war crimes in applying the no-impunity principle.

2022 POLITICAL FRAMEWORK AGREEMENT

On 5 December 2022, a political ‘Framework Agreement’ was signed between military generals and the Forces for Freedom and Change’s Central Council, as a way out of the crisis that followed the 25 October 2021 coup. This military-civilian pact set out a new

24-month transition period and was widely welcomed by the international community, with the hope that it would pave the way back towards a new civilian-led government to bring about durable peace and justice. The Agreement was ambitious in establishing new constitutional arrangements, including a Constitutional Court, while preparing the ground for elections.

However, there were also concerns with the Framework Agreement, as pro-democracy protesters and political parties continued to oppose it. In particular its deferral of key issues such as justice and security sector reform to a second stage, comprehensive Agreement, without clear deadlines seemed concerning. There were also concerns that a subsequent comprehensive Agreement might not honour the establishment of the Transitional Justice Commission that was set out in the 2020 Transitional Justice Bill adopted into law on 24 April 2021 during the transition period.²⁰¹

6.2.3. Sudanese criminal law relevant to CRSV

Despite amendments to the 2007-Armed Forces Law and the 1991 Criminal Law (amended in 2009, 2015, 2020), these amendments remain incomplete, with numerous discriminatory provisions. However, in 2020 all references to public lashings were repealed in the Criminal Act.²⁰² Both laws as amended include war crimes, crimes against humanity and genocide as offences, ostensibly to demonstrate ability and willingness to investigate and prosecute ICC crimes at the national level.

THE DEFINITION OF RAPE

The crime of rape is defined under Section 149 of the Criminal Law, as amended in 2015²⁰³ as:

198 George Sadek, ‘Sudan: Interim Constitutional Declaration Signed’, Global Legal Monitor – Library of Congress (9 October 2019) <https://www.loc.gov/law/foreign-news/article/sudan-interim-constitutional-declaration-signed/> accessed 5 November 2020.

199 Sudan Draft Constitutional Charter for the 2019 Transitional Period.

200 UNFPA and the Asian Population and Development Association and Forum of Arab Parliamentarians on Population and Development, ‘Review and Analysis of human rights and gender-based violence and their policy frameworks in Sudan (December 2021)’, p. 9 https://www.apda.jp/pdf/p06_jinkou_kaihatu/reviewsudan_2021_en.pdf accessed on 15 July 2022.

201 Published in the Official Gazette in July 2021 <https://t.co/pEXOGDfkNY?amp=1> accessed 8 June 2023; REDRESS, Unofficial translation of Draft Transitional Justice Commission Bill 2020 <https://redress.org/wp-content/uploads/2021/03/Transitional-Justice-Commission-Bill-2020-English.pdf> accessed 8 June 2023.

202 See REDRESS, ‘Sudan Legal Amendments. Explanatory table’ (July 2020) <https://redress.org/wp-content/uploads/2020/07/3-REDRESS-Sudan-Legal-Amendments-July-2020-Explanatory-Table.pdf> accessed 8 June 2023.

203 The original 1991 Criminal Law, section 149 defined all cases of rape outside marriage as adultery: “*sexual intercourse through adultery or homosexuality with any person without his consent*”. If a rape victim failed to prove her case, she could be punished for committing adultery (zina). The punishment was 100 lashes if she was unmarried and death by stoning if she was. The 2015 amendment expands the definition of rape and separates it from Zina.

"There shall be deemed to have committed the offence of rape, whoever makes sexual contact by way of penetrating a sexual organ or any object or part of the body into the victims' vagina or anus by way of using force, intimidation or coercion by fear of the use of violence, detention, psychological persecution, temptation, or abuse of power against the person or another person, or when the crime is committed against a person incapable of expressing consent because of natural causes or related to age."

"A person who commits sexual harassment is anyone who carries out an act, a speech or behaviour that is a temptation or an invitation for someone else to practice illegitimate sex, or conducts horrendous or inappropriate behaviour of sexual nature that harms a person, psychologically, or makes them feel unsafe. This person will be sentenced to a period of no more than three years and lashing."²⁰⁴

Further amendments to the Penal code in 2020, include increasing the maximum penalty for rape from 10 years to life imprisonment, in Article 149. The 2020 amendments to the Penal code also elevated the age of adulthood to 18 years of age from the previous definition of "whomever reaches puberty and has completed 15 years of age."

The definition and interpretation of the crime of rape continues to be limited despite the amendments, in several respects:

- Girls can be legally married as young as 10 years of age;
- Despite the 2015 amendment, marital rape is not recognised by authorities;
- A medical, forensic examination and a copy of 'Form 8' (medical report) is still required as evidence.

FEMALE GENITAL MUTILATION

The 2020 amendments also criminalise the act of female genital mutilation (FGM) for the first time, in Section 141.

DEFINITION OF SEXUAL HARASSMENT

A somewhat unsatisfactory new provision on sexual harassment was also introduced in the 2015 amendment, as article 158, which reads:

GROSS INDECENCY

The 1991 Criminal Act also criminalises gross indecency under Section 151. It was amended in July 2020, repealing the punishment of up to 80 lashings. Section 152 used to criminalise indecent and immoral acts, including 'immoral dressing', reportedly used to harass women. This was completely re-written in the 2020 amendment, now entitled 'Indecent acts' and focuses on 'sexual behaviour in public places that may cause annoyance to public feelings', that was hoped would protect women from sexual harassment.²⁰⁵

SHARIA LAW: ADULTERY OR "ZINA"

Sudan's 1998 Constitution cited Sharia law as a source of legislation, creating a plural legal system. While Sharia law was in principle abolished during the Transitional government with the adoption of the 2019 Constitutional Declaration, there are still references to crimes of retribution and *hudood*, punishable under Sharia law in the new Constitutional Declaration. It was hoped that such crimes, like adultery, would be abolished by legislation under the new government, thereby ensuring equal rights for all citizens based on religion, race, gender or any form of discrimination as intended. This is not a minor political issue given that the application of Sharia law to non-Muslims was one of the driving grievances that led to the conflict between North and South Sudan.

At the time of writing, with the outbreak of war on 15 April 2023, the provisions in the 2019 Constitutional Declaration had not been overturned by law. Women continue to be subjected to discriminatory customary

204 Unofficial translation.

205 The 1991 Criminal Act, as amended in July 2020 (no English translation available).

norms, religious beliefs, and social practices – particularly in the conservative justice system. This extends to land rights and marriage under Islamic Law.²⁰⁶

The crime of Zina (adultery) under Islamic Sharia Law in Sudan²⁰⁷ creates a hostile environment in which sexual violence crimes might be reported. Women who report sexual violence are frequently charged with adultery, particularly where the required witnesses cannot be found to corroborate rape.²⁰⁸ When prosecuting rape, judges have traditionally required that the act be witnessed by four competent men, whilst some judges accepted testimony from a man who swears on the Qur'an but would not accept such a testimony from a woman. Therefore, the burden of proof for the crime of rape has been exceedingly high.

IMMUNITY FOR THOSE AFFILIATED WITH THE GOVERNMENT

Prosecuting CRSV in Sudan is further challenged as immunity has been granted to those affiliated with the government, such as the Janjaweed, other members of the military and the police since the beginning of the Darfur crisis (often referred to as a genocide).²⁰⁹

6.2.4. National Strategy for Combating Violence against Women (2015-2032)

In 2015 the Government of Sudan adopted a national strategy for combating violence against women (2015-2032) in which it emphasizes zero-tolerance against all forms of gender-based violence, including conflict-related sexual violence. The Strategy sets out several multi-sectoral policies, programmes and mechanisms to prevent and respond to violence against women.

These policies, programmes and mechanisms relate to the Humanitarian Aid Commission (HAC), the Disarmament, Demobilization and Reintegration (DDR) Commission, the National Council for Child Welfare (NCCW) and the Unit for Combating Violence against Women and Children, as well as the Family Police Units.²¹⁰ Training and capacity building have also been undertaken by the Government of Sudan to meet these challenges.²¹¹ On 11 March 2022, the UN Special Representative of the Secretary-General on Sexual Violence in Conflict, Ms. Pramila Patten, signed a Framework of Cooperation with the Government of Sudan to address conflict-related sexual violence.²¹² The Cooperation Agreement includes provision for:

“Cooperating together to ensure provision of comprehensive services to victims of sexual violence in conflict by strengthening access of survivors of sexual violence to medical, psychosocial, legal and socioeconomic services.”

Areas of cooperation include:

- Working together to support national policies, legislation, programmes on prevention and response to strengthen protection;
- Cooperating to ensure provision of comprehensive services to victims of sexual violence in conflict by strengthening access of survivors of sexual violence to medical; psychosocial, legal and socioeconomic services;
- Collaborating to strengthen national health, judicial and security systems, including by providing training and capacity building, including in relation to reparations for victims, criminal investigations and prosecutions, and protection of victims and witnesses;

206 Food and Agriculture Organization of the United Nations, 'Gender and Land Rights Database – Sudan' https://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/en/?country_iso3=SDN accessed 6 November 2020.

207 Hala Alkarib, 'Sudan: On Insitar's Zina charges and stoning sentence' (Women's International League for Peace and Freedom, 6 June 2012) <http://www.peacewomen.org/content/sudan-intisars-zina-charges-and-stoning-sentence> accessed 8 June 2023.

208 SIHA Network, 'The Khartoum Massacre: Reflection on the sexual violence that still goes unaddressed one year later' (2 June 2020) <https://sihanet.org/the-khartoum-massacre-reflecting-on-the-sexual-violence-that-still-goes-unaddressed-one-year-later/> accessed 8 June 2023.

209 Adrienne L. Fricke and Amira Khair, 'Laws without justice: An assessment of Sudanese Laws affecting survivors of rape' (Refugees International, June 2007) pp. i-ii <https://www.refworld.org/pdfid/47a6eb870.pdf> accessed 8 June 2023.

210 Ibid.

211 Ibid.

212 SRSF-SVC, UN Press Statement, 'The Government of Sudan and the United Nations sign a Framework of Cooperation to prevent and respond to conflict-related sexual violence' (11 March 2020) <https://www.un.org/sexualviolenceinconflict/press-release/the-government-of-sudan-and-the-united-nations-sign-a-framework-of-cooperation-to-prevent-and-respond-to-conflict-related-sexual-violence> accessed 8 June 2023.

- Engagement with tribal and religious leaders and civil society, including women and youth led organisations to prevent sexual violence, encourage reporting, facilitate reintegration of survivors and their children born of rape, and develop evidence-based advocacy to raise awareness of SGBV.²¹³
3. A transitional justice law that will set out the conceptual framework for transitional justice as well as the appropriate mechanisms and measures to uncover the truth of the violations, hold accountable those responsible, redress the victims' harm and rehabilitate them in a way that achieves national reconciliation, preserves and documents the collective memory, and establishes guarantees of non-repetition of violations and the transition to a democratic system;²¹⁷ and,

The Government of Sudan was to appoint a High-Level Focal Point to lead and coordinate the Government's efforts and work with the Office of the Special Representative and other relevant UN entities. It was understood that this could be the Director of the Combating Violence Against Women & Children Unit, within the Ministry of Social Development (CVAW), that was reporting to the Prime Minister during the transitional government, and had co-authored the UN backed report 'Voices from Sudan' with the UNFPA Sudan Representative.²¹⁴ It was also understood that an Inter-Ministerial Working Group would be established.²¹⁵ The establishment was not made prior to the outbreak of the conflict on 15 April 2023.

4. To supervise and coordinate the establishment of transitional justice mechanisms.

The Board of the Transitional Justice Commission will be composed of 11 independent commissioners, including at least 4 women and 3 members of civil society.

The Joint Office (UNITAMS and OHCHR) played a key role in supporting meaningful participation of civil society in the drafting process through the facilitation of public consultations.²¹⁸ On 11 November 2020, the Joint Office organised a consultation workshop in Khartoum, bringing together representatives of the Ministry of Justice with a Focus Group of 43 participants from civil society, academia, the legal profession and United Nations agencies. The exclusion of victims or survivor groups from such consultations on transitional justice issues is concerning.

6.2.5. Domestic transitional justice mechanisms

THE TRANSITIONAL JUSTICE COMMISSION

According to the Transitional Justice Commission Law adopted on 24 April 2021,²¹⁶ the Commission has four key objectives:

1. To secure transitional justice, including leading nation-wide and inclusive consultations on transitional justice processes;
2. To map past human rights violations;

2019 INVESTIGATION COMMISSION ON THE 3 JUNE 2019 MASSACRE

An Investigation Commission was formed in September 2019 to investigate atrocities committed at the 3 June 2019 massacre in front of the military command in Khartoum.²¹⁹ There are still no credible findings reported by the Commission to date and this can be attributed to the 25 October 2021 coup.

²¹³ Ibid.

²¹⁴ UNFPA and Combating Violence Against Women Unit, Ministry of Social Development, 'Voices from Sudan: An Qualitative Assessment of Gender-Based Violence in Sudan' (July 2021) https://reliefweb.int/sites/reliefweb.int/files/resources/UNFPA_16th.pdf accessed 8 June 2023.

²¹⁵ Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, UN Press Statement, 'The Government of Sudan and the United Nations sign a Framework of Cooperation to prevent and respond to conflict-related sexual violence' (11 March 2020).

²¹⁶ Published in the Official Gazette in July 2021; REDRESS, Unofficial translation of Draft Transitional Justice Commission Bill 2020 <https://redress.org/wp-content/uploads/2021/03/Transitional-Justice-Commission-Bill-2020-English.pdf> accessed 8 June 2023.

²¹⁷ Transitional Justice Commission Law, article 9, Commission Objectives, based on the Unofficial translation of the draft Bill.

²¹⁸ UN Security Council, 'Situation in the Sudan and the activities of the United Nations Integrated Transition Mission in Sudan. Report of the Secretary General' S/2021/470 (17 May 2021) https://unitams.unmissions.org/sites/default/files/s_2021_470-en_0.pdf accessed 8 June 2023.

²¹⁹ 'June 3 Khartoum massacre: Investigation commission formed' *Dabanga* (2019) <https://www.dabangasudan.org/en/all-news/article/june-3-massacre-investigation-commission-formed> accessed 8 June 2023.

While victims' families continue to demand truth and accountability, the military government only admitted ordering a crackdown on protests. The Transitional Military Council, through Kabashi, has stated that it regretted the outcome of the sit-in dispersal.²²⁰ Increasing pressure for outcomes of the investigation commission is another avenue.

The mandate of the Investigation Commission could be broadened to include all violence against protesters during the revolution and up to 15 April 2023, with a particular emphasis on sexual violence.

SPECIAL CRIMINAL COURTS FOR CRIMES IN DARFUR

Special Criminal Courts for the events in Darfur were established by decrees in different parts of Darfur in 2001, some were abolished in 2003 and renewed in 2005. They were widely criticised as being established to avoid the jurisdiction of the ICC.²²¹ These courts have a concerning lack of fair trial guarantees. Concerning features include the lack of legal qualifications of judges, the use of confessions as key evidence and the lack of legal representation for the accused.²²² They include a wide range of offences, including robbery and public order offences. Numerous cases were heard – usually within a single day, without calling witnesses, without a defence lawyer, and generally, perpetrators of CRSV were acquitted. Here are a few examples:

- 18 June 2005 - Nyala Special Criminal Court for Events in Darfur: the case involved the prosecution of two soldiers and eight members of the Popular Defence Forces (an Islamist militia

created as a paramilitary force) for rape and armed robbery against a young woman on a bus. All ten defendants were later acquitted.²²³

- 10 November 2016 in the Special Criminal Court for Crimes in Darfur - El Geneina: The Court convicted and handed down a life sentence and fine of 5000 SDP against a policeman for child rape on 1 September 2015 in Al-Jebel neighbourhood in El Geinina.²²⁴

Systematic documentation of successful prosecutions and convictions, as well as fair trial and victim protection guarantees remain wanting in the proceedings.

PURSUIT OF REPARATION THROUGH THE REGULAR COURTS

There are numerous challenges faced by survivors in accessing reparations through domestic courts, starting with the cultural atmosphere surrounding rape in Sudan. However, there are cases that have been prosecuted in domestic courts, and on rare occasions have seen a positive result. Regular courts have also heard cases that fall within the mandate of the Special Courts mentioned above, for instance:

- 30 November 2016 in Nyala Criminal Court: the case involved rape of a young girl at gunpoint by a member of the regular forces in Nyala, and the convicted person was sentenced to death.²²⁵

Unfortunately, there is a severe lack of monitoring and reporting of local cases involving CRSV.

220 'Sudan military admits it ordered brutal crackdown on protesters' *Aljazeera* (14 June 2019) <https://www.aljazeera.com/news/2019/6/14/sudan-military-admits-it-ordered-brutal-crackdown-on-protesters> accessed 8 June 2023.

221 Amnesty International, 'Sudan: National court for Darfur crimes lacks credibility, and is no replacement for ICC investigation' Press Release (14 June 2005) <https://www.amnesty.org.uk/press-releases/sudan-national-court-darfur-crimes-lacks-credibility-and-no-replacement-icc> accessed 8 June 2023.

222 Amnesty International, 'Special Courts in Darfur' (February 2004) <https://www.amnesty.org/en/wp-content/uploads/2021/06/afr540262004en.pdf> accessed 8 June 2023.

223 Human Rights Watch, 'Lack of Conviction: The Special Criminal Court on Events in Darfur' (June 2006) p. 12 <https://www.hrw.org/legacy/backgroundunder/ij/sudan0606/sudan0606.pdf> accessed 9 June 2023.

224 'Darfur Crimes Court sentences police officer to life imprisonment' *Sudan Tribune* (10 November 2016) <https://sudantribune.com/article59040/> accessed 9 June 2023.

225 'Darfur Crimes Court sentences child rapist to death', *Sudan Tribune* (30 November 2016) <https://sudantribune.com/article59222/> accessed 9 June 2023.



VII. SUMMARY AND CONCLUSION

7.1. Summary of key avenues to effective reparation for CRSV

In the current climate, key avenues to reparation being implemented include:

- i. Reparations awards granted by the ICC;
- ii. Pursuit of cases through existing national courts, including the Special Courts in Darfur;
- iii. Progressing the establishment of Transitional Justice mechanisms started during the transitional period.

7.2. Summary of key obstacles to effective reparation for CRSV

Obstacles to effective reparation are apparent from the threats and challenges survivors face in accessing the few available avenues to justice and reparations described in previous sections. Some notable obstacles include:

- 15 April 2023 outbreak of war between the Sudan Armed Forces and Rapid Support Forces.
- Lack of Significant Security Sector Reform and return to civilian rule;
- Inclusion of alleged perpetrators in the current/previous Sovereign Council;
- Pre-15 April 2023: ongoing and sporadic conflict, with continuing structural discrimination and inequalities subjecting women from certain regions to conflict related sexual violence.
- The failure to implement the Juba Agreement and its provisions on reparations has left a gap in addressing survivor's urgent and immediate needs;
- Lack of trust between survivors and the state. Survivors are sceptical of state agents and have demonstrated lack of trust in the government, this is exacerbated by the ill-treatment and harassment of women taking part in protests by state authorities;
- Maintaining the confidentiality of the information obtained from victims that poses a risk of exposing their identities to government officials and further endangering them. This is also related to raising of awareness or campaigning for reporting of cases by survivors where officials expose survivors' names in a bid to convince more survivors to come forward;
- Reprisals from government officials. Survivors have been arrested and tortured for speaking to human rights groups impacting survivors' willingness to seek assistance due to fear;
- 148.9% hyper-inflation rate as of June 2022, and a lack of a functioning government.²²⁶

²²⁶ Alan Boswell, 'A breakthrough in Sudan's Impasse?' (International Crisis Group, 12 August 2022) <https://www.crisisgroup.org/africa/horn-africa/sudan/breakthrough-sudans-impasse> accessed on 19 August 2022.



Stop raping women in Sudan - "This has been going on for years, mainly organised by the Janjaweed militia as well as the army. And no one is trying to stop it", May 2022.

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VIII. CONCLUSION

Survivors have expressed their frustration over the current state of their lives and recurring armed conflicts. They demand peace and accountability. They have illustrated how they are neglected, and they call upon the international community to come to their aid through funding and increased pressure to ensure the implementation of the peace agreements.

There is currently no capacity or focus on reparations for CRSV in Sudan:

“There is no single NGO in Sudan mentioning such a topic about reparations for survivors of CRSV, if there is any reparations program under a civil government, I would be happy to participate in such a program.”²²⁷

Sustained investment in awareness raising campaigns and training on victims’ rights and reparation is urgently needed, in particular to ensure that survivors that are eligible to receive reparation in the ICC’s only ongoing case are able to apply on time.

Survivors recognize that they have been excluded in talks and peace agreements. They demand representation and participation as well as urgent interim reparations. They are calling for peace and a civilian government. They demand to be included in these processes, demand that their voices be heard and a victim-centred approach to be used in implementing reparations in accordance with Security Council Resolution 2467.²²⁸ A gender sensitive

approach, in line with implementation of Resolution 1325 on Women, Peace and Security, must inform negotiations by all parties involved:

“Women are always left out of these talks and yet they bear the brunt of this conflict.”

Finally, for survivors to be able to obtain effective remedies and reparation, there needs to be a recognition of the nature of the conflict since 2002 as genocidal and ethnic. The sexual violence suffered has not just been conflict-related, but also genocide-related as demonstrated in the current cases before the ICC. The charges in the Ali Kushayb case highlight that, during the course of the attack the Janjaweed used hate speech epithets such as “slave” and “servant”, and made derogatory references linked to skin-colour. They also stated that the Government of Sudan “sent them to kill every black person.”²²⁹

The genocidal violence that galvanised international attention with calls of “never again” in 2003 and led to the referral of the situation to the ICC in March 2005 continues to this day.

The 2020 Juba Peace Agreement marked the end of that conflict. However, the military actors who hold power have thwarted transitions to civilian rule as this would put them at risk of being prosecuted for international crimes, first in the 25 October 2021 coup, and then with the outbreak of war on 15 April 2023. As evident in other conflict situations, compromises and incentives may be necessary to ensure that the military relinquishes power and accepts transitional justice. For example, transitional mechanisms in Colombia could provide useful case studies of potential ways forward as they have been able to incentivise the military and armed groups in putting down arms in favour of peace and justice.

227 Roundtable discussion, Khartoum (August 2022).

228 UN Security Council ‘Resolution 2467 (2019)’ S/RES/2467 (23 April 2019): Strengthens justice and accountability and calls for a survivor-centred approach in the prevention and response to conflict-related sexual violence.

229 ICC, ‘Decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’) ICC-02/05/01/20 (9 July 2021, corrected version 23 November 2021) Count 6: Other inhumane acts as a crime against humanity; Count 7: Outrages upon personal dignity as a war crime, para. 42.



IX. RECOMMENDATIONS

To the warring parties

- Immediate cessation of hostilities and sexual violence by the Sudanese Armed Forces and Rapid Support Forces;
- The Sudanese Armed Forces and Rapid Support Forces should publicly condemn and demand cessation of sexual violence against civilians and should immediately hold perpetrators in their ranks to account;
- The warring parties should remain committed to humanitarian agreements, such as the Jeddah Humanitarian Agreement signed on 11 May 2023 to allow CRSV survivors access to humanitarian assistance and medical services;
- Security Sector reform should be expedited, including dismantling of the Rapid Support Forces and their removal from residential areas, IDP camps and their surroundings in conflict regions;
- All parties to the conflict must acknowledge their contribution towards CRSV in Sudan, render apologies, commence a Disarmament, Demobilisation and Reintegration (DDR) process, and implement robust accountability measures; and,
- Security Sector reform should be a priority to the resolution of the conflict, including dismantling of the Rapid Support Forces and their removal from residential areas, IDP camps and their surroundings in conflict regions.

To a new civilian transitional government

- Remain committed to the UN Framework Agreement on the Prevention and Response to Sexual Violence against Women and Girls during Conflict signed on 10 March 2020;
- Ensure that all peace or political agreements engage women and CRSV survivors in view of Security Council Resolutions 1325 and 2467; and include a clear reference to CRSV and the right to reparation;

- Ensure that CRSV survivors are included in discussions on transitional justice in any new political Agreements;
- Establish the Transitional Justice Commission in accordance with the law adopted on 24 April 2021;
- Expedite the approval of the Draft Violence Against Women Law, drafted by the VAW Unit in the Ministry of Social Development;
- Break the silence, blame and social stigma around sexual violence through community awareness programmes to create an enabling environment for survivors to be supported, report cases and ultimately acquire reparations;
- Investigate and hold perpetrators of CRSV accountable, including perpetrators of decades of violence in Darfur and other conflict regions, as well as CRSV against protesters, including the Khartoum massacre on 3 June 2019, and violence since 15 April 2023 in Khartoum and elsewhere;
- Ensure safe and accessible health clinics for survivors of CRSV, that are staffed with trained female medical personnel; and,
- Engage in a comprehensive Legal Reform process that adopts international standards on victims' rights to a remedy and reparation.

| With respect to reparations

To competent authorities, UN Agencies, international donors and civil society

- Ensure that CRSV survivors are included in discussions on transitional justice in any new political Agreements;
- Ensure that all peace or political agreements engage women and CRSV survivors in view of Security Council Resolutions 1325 and 2467; and include a clear reference to conflict-related sexual violence and the right to reparation;

- Facilitate urgent interim reparations for survivors of CRSV and other victims in need.
- When conflict subsides, facilitate the design of holistic survivor-led reparation processes to include restitution or compensation for lost lands or property, education for survivors' children including children born of rape, medical, legal and psychosocial support, as well as socio-economic reintegration; and,
- Ensure the protection of survivors against reprisals, intimidation, and stigma, through a strategy and legal policy framework that ensures proper assistance from the outset.

To signatories to the Juba Peace Agreement

- Raise awareness and garner support for the Agreement within the International Community, supporting its legitimacy, while recognising shortcomings, in relation to reparations for conflict-related sexual violence;
- Build support for the establishment of the Transitional Justice Commission, in accordance with the law, adopted on 24 April 2021 (published in the Official Gazette in July 2021);
- When conflict abates, undertake consultations with affected populations in the conflict regions, to sensitise and consult them regarding the implementation of the Agreement, in particular:
 - the selection of Commissioners of the Transitional Justice Commission by civil society;
 - the establishment of a victim status enabling access to reparation services and participation in transitional justice processes;
 - Survivor and gender-sensitive modalities for:
 - The Truth Commission;
 - The Special Court for Darfur;
 - Compensation and Reparations Fund;
 - Internally Displaced Persons and Refugees Commission (IDPRC);

- Use of Civilian administrated courts (community courts) in relation to sexual violence crimes; and,
- Raise awareness and speak out against CRSV to end the stigma against survivors and children born of rape as well as the culture of impunity.

With respect to the national justice system

To competent authorities, when violence abates,

- Address impunity for CRSV, by ensuring adequate training and independence of the judiciary;
- Ensure transformative law reform regarding women's rights by repealing and amending discriminatory laws and policies;
- Require traditional justice judges to refer CRSV cases to official courts of law in line with the practice in many other countries in the region;
- Establish a victims and witnesses protection mechanism, including trained female personnel, in consultation with survivor groups;
- Create SGBV Units within Police stations with well-trained female personnel to handle complaints from women in a gender-sensitive and survivor-centric way;
- Fast-track the enactment of the combating violence against women Draft Bill into law, ensuring public engagement with women and survivor groups;
- Remove features of national law or policy that obstruct investigation, prosecution, and adjudication of crimes of sexual violence, such as amnesties and limiting aspects of Form 8 (used to report crime incidents); and,
- Enact laws and raise awareness about reparations to ensure cultural practices do not prevent survivors' access to reparation, especially monetary compensation, and that amounts allocated are commensurate to the harm suffered.

To the government of Chad

- Ensure effective protection, security and non-discrimination of refugees in Chad;
- Ensure refugees in Chad are afforded the same rights to access justice as nationals including justice for local cases of sexual violence; and,
- In collaboration with UNHCR, consider relocating refugee camps from desert areas and other arid terrains to more hospitable locations to reduce sexual assault committed against refugees due to the distances they must travel in search of necessities.

To donors and international community

- Provide funding for first response treatment and training for CRSV, addressing shortages of rape response kits and psychological support;
- Support civil society through adequate funding to address and advocate on issues surrounding CRSV in Sudan including capacity building on rights and referral pathways for survivors, including survivors since 15 April 2023 in Khartoum and elsewhere;
- Provide holistic support to victims ensuring that they can access remedies and reparations through the International Criminal Court, existing domestic justice processes and future transitional justice mechanisms;
- Maintain adequate financial pledges for the implementation of the Juba Agreement and subsequent peace agreements;
- Ensure that all peace or political agreements engage women and CRSV survivors in view of Security Council Resolutions 1325 and 2467 and include a clear reference to conflict related sexual violence and the right to reparation; and,
- Acknowledge recent atrocities in Darfur, South Kordofan and Blue Nile as the continuation of a genocidal campaign since 2002.

To the United Nations

- The UN Security Council and UN Human Rights Council should mandate an immediate inquiry into all human rights violations committed since the 25 October 2021 coup, as well as since the outbreak of conflict on 15 April 2023, with a specific emphasis on conflict-related sexual violence;
- Support the implementation of the National Action Plan on women, peace and security and the UN Framework of Cooperation on the Prevention and Response to Sexual Violence against Women and Girls during Conflict;
- Investigate United Nations security personnel responsible for committing CRSV (including Sexual Exploitation and Abuse), and compensate survivors for the harms they have endured; and,
- Provide capacity building and funding to UNITAMS departments dealing with CRSV (Women's and Child Protection units) to support interim and long-term reparation strategies.

To the International Criminal Court

- The Prosecutor should make a strong statement condemning the commission of crimes within the jurisdiction of the Court and highlight CRSV;
- The Prosecutor should ensure the coordination of evidence gathering of current as well as recent crimes that fall within its jurisdiction;
- The Prosecutor should urgently update existing charges and cases to reflect ongoing violence in the 20 years since the Darfur genocide;
- The Prosecutor should ensure that all cases include a comprehensive fully reflective range of sexual violence charges;
- The Registrar should re-invigorate international cooperation and support to ensure the execution of outstanding arrest warrants and transfers to The Hague; and,
- The Registry and Representative of Victims should devise creative means of sensitising and informing victims of their rights and the possibility to apply and participate in the ICC's processes, including how to apply for reparation.



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