**The response of the UN Mechanisms to the Situation in Darfur since 15 *April 2023***

(20 November 2023)

***Introduction***

For the past seven months, particularly in May 2023, the Sudanese region of Darfur has been the scene of a bloody conflict that has led to the death of hundreds of civilians and the displacement of thousands. Darfur states are again ravaged by armed conflict, and atrocities are taking place on a comparable scale in the region. The Rapid Support Forces (RSF) and the Sudanese Armed Forces (SAF) are still killing, raping and looting the same Darfurian communities. The international response to the ongoing conflict has been glacial and the reaction to the situation in Darfur is ever slower. This is even though what is happening in Darfur is a direct outcome of the first Darfur crisis of the early 2000s, which brought forth the RSF and its leader General Mohamed Hamdan Dagolo, known as Hemedti.

Under the Juba Agreement that was signed in October 2020, the late armed movements leader, Mr Khamees Abakar, who belongs to the African Masalit tribe, became governor of West Darfur State. The local Arab militias were unhappy, and there was violent resistance thereafter. However, neither the UN mission nor the national justice body has investigated the alleged human rights violations or prosecuted those who bear the greatest responsibility for these crimes. When the fighting between SAF and the RSF began in Khartoum on 15 April 2023, widespread violence also erupted in West Darfur. The root cause of the conflict was not clear, but the Arab militias began a murderous rampage against the civilian population of African descent.

Survivors who have fled to the nearby villages in the neighboring country Chad have mentioned that the RSF and the Arab armed militias were moving from one house to another in El-Geneina city in West Darfur, killing, raping, and looting, leaving the corpses of men and boys to decompose in the streets. In May 2023, the armed militiamen attacked El-Geneina's hospital and raided the sultan's palace, the house where the tribal leader of the Masalit tribe lives. In June 2023, and through a TV interview, the governor of West Darfur state Mr Khamees Abakar denounced the violence as “[genocide](https://www.foreignaffairs.com/tags/genocide).” against his people in El-Geneina. The next day he was abducted and murdered by armed men in RSF uniforms.

Since the beginning of October 2023, the RSF has taken over El-Geneina city the capital of West Darfur state, Zalingei city, the capital of Central Darfur State and the largest city of the Fur ethnic group and Nyala city, the capital of South Darfur state that has a large group of Arab ethnicity. Some Arab tribes in southern and eastern Darfur, which had tried to remain neutral in the earlier armed conflicts of 2003 in Darfur, now find themselves in support of the RSF, where at least 9 Arab tribal leaders declared support for the RSF in August 2023. For the time being, the Darfurian armed movements, including the Governor of the greatest Darfur, Mr Minni Minawi, the leader of the Sudan Liberation Movement, have all stayed out of the fight.

According to UNHCR, nearly 4,000 civilians have been killed and 8,400 injured in Darfur, between 15 April and the end of August, with the majority believed to have been targeted mainly due to their ethnicity, particularly in West Darfur. Tragically, displaced children, including refugees, have been caught in the crossfire, killed or maimed as their schools were impacted by shelling.

At least 29 cities, towns, and villages have been destroyed across Darfur after extensive looting and burning. Indiscriminate shooting and heavy shelling in camps and gathering sites sheltering displaced people have resulted in hundreds of casualties. More than 139 civilian structures, including community water points, schools, markets, and hospitals, have been destroyed, damaged, looted or occupied. Medical staff attempting to operate ad hoc clinics in private residences have been deliberately targeted. Schools in Darfur have been closed, cutting off access to education and safe spaces for millions of children and exposing them to serious risks of sexual violence, distress, trauma, and family separation.

According to UNICEF, the number of unaccompanied and separated children is increasing. As the conflict has destroyed livelihoods, refugee children remain at heightened risk of abduction into forced labor, recruitment into armed groups, and being trafficked. Civilians who have been forced to leave the region to search for safety have reportedly been prevented from fleeing or faced challenges at checkpoints, and have been arrested and detained.

***The response of the UN Security Council to the crisis in Sudan***

On 2 June 2023, the UN Security Council decided to extend the mandate of the United Nations Integrated Transition Assistance Mission in Sudan (UNITAMS) until 3 December 2023. The Council members have noted that the Mission’s presence is more important than ever to coordinate the United Nations response to the complex challenges facing Sudan.

For instance, the United Kingdom as facilitator, has underlined their support for the work of the Special Representative and his team, recognizing that the humanitarian situation remains of significant concern, and the mandate renewal reiterates United Nations support for satisfying the Sudanese people’s demands for peace and democracy. It will also provide time for the Council to assess the mandate’s impact.

The African countries such as Gabon, Ghana, and Mozambique, affirmed that Sudan is at a critical phase in its history, with a heightened risk of civil war. Moreover, they have indicated that the worsening security situation poses a risk to other countries in the region, calling on the parties to declare an immediate ceasefire. In addition, they have underlined the importance of the de-escalation plan proposed by the African Union as a reference road map to end the conflict in Sudan. They Have also highlighted the key role of sub-regional organizations, namely the African Union and the Intergovernmental Authority on Development (IGAD), in resolving the crisis. The alarming humanitarian situation facing the civilian population, internally displaced persons, and refugees in neighboring countries requires urgent action, including through mobilization of finances for the country's 2023 humanitarian response plan. Additionally, they called for unimpeded access for humanitarian personnel, stressing the need to ensure humanitarian assistance to Sudan.

Although the delegation of the United States has voted in favor of the renewal of the mandate for UNITAMS, the United States, however, has expressed regret that the Council was unable to find consensus on an updated mandate “which is needed now more than ever” due to the current crisis in Sudan. Recalling that the United States has put forward certain comments and recommendations, other Council members did not agree with them. In this context, the United States expressed hope that the Council could come together and agree on a resolution that would reflect the situation on the ground and empower the Mission to better support the end of the conflict and achieve a democratic political settlement.

For Japan, their delegation has expressed their concerns about the clashes that continue in Sudan despite the repeated ceasefire agreements between the parties. They have indicated that there are no clear positive signs of a return to the political process, calling on the parties to immediately end hostilities and uphold the Jeddah Declaration and the Agreement on a Short-Term Ceasefire and Humanitarian Arrangements.

Both Switzerland and Malta, have stressed that the Council must speak with one voice on the need to end the violence in Sudan and protect the civilian population. Moreover, the organ must show unity in its support for regional efforts under the leadership of the African Union and the IGAD. They have also called on both parties to immediately silence the guns, respect international humanitarian law and fully implement the Jeddah Declaration and the Agreement on a Short-Term Ceasefire and Humanitarian Arrangements.

China has underscored the importance of the cessation of hostilities, noting that the parties should resolve differences by dialogue and lasting political arrangements. Recognizing that the African Union and other regional players have adopted a road map to end the conflict, he urged the Council to support their efforts. The Chinese delegation has also noted that Sudan’s issues should be resolved internally, as any external pressure or unilateral sanctions will exacerbate the process. While expressing support for UNITAMS, they called on the Mission to maintain communication with the Sudanese authorities and support the host country.

The Russian Federation has noted that the situation in Sudan remains worrying, and further escalation can aggravate the security risks there and destabilize neighboring countries. Russia has called on the Sudanese parties to show political will and undertake immediate steps to end the armed confrontation, encouraging national and regional efforts to ensure a ceasefire.

The delegation of the United Arab Emirates has expressed their deep concern about the grave violations of the ceasefire agreement, they also stressed that humanitarian access is a lifeline for those in need, urging the Council to send a clear message about the importance of reaching a permanent ceasefire agreement. Moreover, they have highlighted the vital need for UNITAMS presence in Sudan at this moment.

***The Response of the International Criminal Court to the Situation in Darfur in 2004***

Sudan is not a State Party to the Rome Statute. However, since the United Nations Security Council (UNSC) referred the situation in Darfur to the ICC based on the recommendations of the International Commission of Inquiry on Darfur, and according to resolution 1593 (2005) on 31 March 2005, the ICC may exercise its jurisdiction over crimes listed in the Rome Statute committed on the territory of Darfur, Sudan from 1 July 2002 onwards

The International Commission of Inquiry on Darfur was established under [United Nations Security Council Resolution 1564](https://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1564) (2004), adopted on 18 September 2004. The resolution, passed under Chapter 7 of the United Nations Charter, urged the Secretary-General to set up an international commission to investigate human rights violations committed in Darfur. By its mandate to 'investigate reports of violations of human rights law and international humanitarian law', the Commission carefully has examined reports from different sources including Governments, inter-governmental organizations, United Nations bodies, and mechanisms, as well as non-governmental organizations.

Based on a thorough analysis of the information gathered in the course of its investigations, the Commission has established that the Government of Sudan and the [Janjaweed](https://en.wikipedia.org/wiki/Janjaweed) are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law. In particular, the Commission has found that Government forces and militias conducted indiscriminate attacks, including the killing of civilians, torture, enforced disappearances, destruction of villages, rape, and other forms of sexual violence, pillaging, and forced displacement, throughout Darfur. These acts were conducted on a widespread and systematic basis and therefore may amount to crimes against humanity.

The extensive destruction and displacement had resulted in a loss of livelihood and means of survival for countless women, men, and children. In addition to the large-scale attacks, many people had been arrested and detained, and many had been held incommunicado for prolonged periods and tortured. The vast majority of the victims of all of these violations had been from the Fur, Zaghawa, Massalit, Jebel, Aranga, and other so-called 'African' tribes.

The Commission had strongly recommended that the Security Council immediately refer the situation of Darfur to the International Criminal Court, under article 13 (b) of the ICC -Rome Statute. As repeatedly stated by the Security Council, the situation in Darfur constituted a threat to international peace and security. Moreover, as the Commission has confirmed, serious violations of international human rights law and humanitarian law by all parties were continuing.

The prosecution by the ICC of persons allegedly responsible for the most serious crimes in Darfur would contribute to the restoration of peace in the region. According to the Commission, the alleged crimes that had been documented in Darfur meet the thresholds of the Rome Statute as defined in articles 7 (1), 8 (1), and 8 (f). There is an internal armed conflict in Darfur between the governmental authorities and organized armed groups.

A body of reliable information indicated that war crimes might have been committed on a large scale, at times even as part of a plan or a policy. There was also a wealth of credible material that suggests that criminal acts were committed as part of widespread or systematic attacks directed against the civilian population, with knowledge of the attacks. In the opinion of the Commission, therefore, these might amount to crimes against humanity.

The Sudanese justice system was unable and unwilling to address the situation in Darfur. That system had been significantly weakened during the past decades. Restrictive laws that grant broad powers to the executive have undermined the effectiveness of the judiciary, and many of the laws in force in Sudan today contravene basic human rights standards.

Sudanese criminal laws did not adequately proscribe war crimes and crimes against humanity, such as those carried out in Darfur, and the Criminal Procedure Code contains provisions that prevent the effective prosecution of these acts. In addition, many victims informed the Commission that they had little confidence in the impartiality of the Sudanese justice system and its ability to bring to justice the perpetrators of the serious crimes committed in Darfur. In any event, many have feared reprisals if they resort to the national justice system.

The measures taken so far by the Government to address the crisis have been both grossly inadequate and ineffective, which has contributed to the climate of almost total impunity for human rights violations in Darfur. Very few victims have lodged official complaints regarding crimes committed against them or their families, due to a lack of confidence in the justice system. The Commission had considered that the Security Council should act not only against the perpetrators but also on behalf of the victims. It therefore had recommended the establishment of a Compensation Commission designed to grant reparation to the victims of the crimes, whether or not the perpetrators of such crimes have been identified.

The Commission also recommended several measures to be taken by other bodies to help break the cycle of impunity. These included the exercise of universal jurisdiction by other States, re-establishment by the Commission on Human Rights of the mandate of the Special Rapporteur on human rights in Sudan, and public and periodic reports on the human rights situation in Darfur by the High Commissioner for Human Rights.

***The Response of the International Criminal Court to the Situation in Darfur in 2023***

In June 2023, several reports by credible sources indicated that there were continued atrocities and ethnically targeted killings committed by the Rapid Support Forces (RSF) and its allied militias in West Darfur. These reports have documented the destruction of the village of Misterei and the mass killings of civilians, reportedly committed by the RSF and allied militias. Moreover, a report by the United Nations Office of the High Commissioner for Human Rights indicates that a mass grave found near El Geneina containing the bodies of 87 people, including women and children, is the latest example of the horrific human cost of this war.

As these atrocities and violence in Darfur demand accountability, meaningful justice for victims and the affected communities, and an end to impunity, the International Criminal Court Prosecutor announced on 13 July 2023 that alleged war crimes and crimes against humanity committed during the current fighting may be subject to ICC investigation and prosecution and that the Prosecutor's office has commenced focused investigations on recent events. The Prosecutor of the International Criminal Court said that *he is investigating fresh allegations of war crimes and crimes against humanity in the Darfur region, including the* [*recent killings*](https://news.un.org/en/story/2023/07/1138647) *of 87 members of the ethnic Masalit community, reportedly carried out by the Rapid Security Forces and its militia*.

***The response of the UN Human Rights Council to the Human Rights Situation***

More than 7,000 people were killed and thousands were injured as a result of the outbreak of war in Sudan in mid-April, according to the latest United Nations statistics. The two sides of the fighting face each other; The Sudanese Armed Forces and the Rapid Support Forces are accused of committing widespread human rights violations against civilians during the ongoing conflict between them.

In September 2023, the UN Human Rights Council adopted a resolution to establish an Independent International Fact-finding Mission on the situation in Sudan including Darfur, stressing the urgent need to investigate what human rights violations were committed and where they occurred. Through the process for adopting the resolution, 19 countries voted to approve the resolution, while 16 countries rejected it, and 3 countries abstained from voting.

The resolution called on the parties to the conflict to cooperate fully with the fact-finding mission in carrying out its work. The resolution urged the international community to provide full support to the mission in implementing its mandate. The mission consists of 3 members with expertise in international human rights law and international humanitarian law, who will be appointed by the President of the Human Rights Council as soon as possible for an initial period of one year.

The international mission was mandated to investigate and establish the facts, circumstances, and root causes of all allegations of human rights violations, abuses, and violations of international humanitarian law, including those committed against refugees. According to the resolution, the mission must identify individuals and entities responsible for violations or other related crimes to ensure that those responsible are held accountable. The resolution stipulates that the investigation mission shall make recommendations on accountability measures as appropriate, individual criminal responsibility, and access to justice for victims.

***Conclusion***

In 2003, when the armed conflict broke out in Darfur the international community including the permanent members of the UN Security Council was very active and responsive to the humanitarian crisis at the material time, but now they are silent with inability and unwillingness to secure any strong resolution from the Security Council to protect the civilians. The UN bodies, which have the authority to act, referred the responsibility to the African Union, IGAD, and Jeddah which have achieved nothing in terms of political and human rights concerns in Sudan.

Even unilaterally, the first reaction from the United States came after the U.S. ambassador to the UN visited Darfurian refugee camps in Chad earlier in September 2023. However, beyond imposing sanctions on RSF leaders and supporting humanitarian efforts on the border, the United States appears to be disabled.

The international community has a legal and moral responsibility to stop the bloodshed. Countries that are at odds over other global issues should be able to set aside their differences and agree on actions to protect civilians, provide essential aid, and stop an unfolding calamity that will likely surpass what Darfur suffered two decades ago.

When the UN General Assembly meets in New York, the African countries must show that the agenda of peacemaking and civilian protection is still at the table to put an end to the human suffering in Darfur, and Sudan in general.

**Mossad Mohamed Ali**

**Executive Director**

**ACJPS**