

BREACHES OF THE GENOCIDE CONVENTION IN DARFUR, SUDAN: AN INDEPENDENT INQUIRY

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Special Message for Readers

The following analysis describes acts of genocide, by necessity employing detailed and graphic language at times. This content may be emotionally challenging for some readers, particularly survivors of atrocity crimes.

Foreword by the Hon. Irwin Cotler

I write on the occasion of the 30th anniversary of the genocide of the Tutsis— *Kwibuka 30*— where 10,000 Tutsis were murdered every day for three months, while the international community dithered and delayed. Nobody could say we did not know. We knew, but we did not act.

I write also on the eve of the 80th anniversary of the mass deportation of Hungarian Jews to the death camp, Auschwitz, the most brutal extermination camp of the 20th century. From mid-May to the beginning of July 1944, 440,000 Jews were deported to Auschwitz, the cruelest, most efficient, and quickest killing field in all of the Holocaust. Once again, in mid-1944, we could not say we did not know. We knew and, again, we did not act.

What makes the Holocaust and the genocide of the Tutsis so horrific are not only the mass atrocities themselves. What makes them so horrific is that these genocides were preventable – reminding me of the words of my mentor, Nobel Peace Laureate, Professor Elie Wiesel: “Indifference and inaction always means coming down on the side of the oppressor, never on the side of the victim.”

I write today, in the shadow of the 20th anniversary of the earlier genocide in Darfur – a “genocide foretold” as I characterized it in my remarks to the Canadian Parliament. In 2004, as Minister of Justice and Attorney General of Canada— addressing the Stockholm Conference on the Prevention of Genocide – I called upon the international community to sound the alarm, to shatter the conspiracies of silence, to break down the walls of indifference, and to stand with the people of Darfur. I then founded the Canadian Parliament’s All-Party Save Darfur Coalition and sought to use every means both inside and outside of parliament to mobilize the necessary political will to arrest this genocide.

Following the scorched earth policy of death and destruction, I introduced the Sudan Accountability Act, which was adopted by the Canadian Parliament, setting forth a framework for action on behalf of the international community. Today, twenty years later, we continue to witness and experience the banality of evil. We have gone from a genocide foretold to a genocide by attrition to the genocide of silence and complicity.

I could not have anticipated that the call to action I shared in the Canadian Parliament, the Stockholm Conference on the Prevention of Genocide, and in Save Darfur rallies in 2006 and following, would resonate so painfully and tragically today.

The targeted identity-based campaign of destruction waged by the Rapid Support Forces (RSF) is the inevitable result of an ongoing culture of impunity in Darfur. As this report demonstrates in chilling detail, the same perpetrators, now under the flag of the RSF, are committing the same atrocities against the same targeted groups, fuelled by the same dehumanization, demonization, incitement, and oft-expressed intent to destroy the Masalit or non-Arab groups.

Indeed, the lessons of twenty years ago haunt us yet again, including:

- The danger of incitement to hate and genocide. As the Supreme Court of Canada affirmed – “the Holocaust did not begin in the gas chambers. It began with words.”
- The danger of silence in the face of evil, which becomes complicity with evil itself.
- The dangers of indifference and inaction in the face of genocide.
- The danger of a culture of impunity, where the entire senior leadership of the Janjaweed remain at large, save for one suspect in the custody of the International Criminal Court (ICC).
- The danger of the betrayal of the elites (*“la trahison des clercs”*), in this case, both the leaders of the Sudanese Armed Forces (SAF) and the RSF.

Every genocide in human history has been made possible not only by the machinery of death and ideology of hatred, but by crimes of indifference, conspiracies of silence, and a network of complicity. Again, what makes the present genocide in Darfur so unspeakable in our time is that it was, and is, entirely preventable. No one can say we do not know what is happening in Darfur. Twenty years ago, the international community at least acknowledged the genocidal atrocities, though it utterly failed to take the necessary action to prevent them. Today, one can only feel shocked – if not betrayed – by the ongoing level of indifference and impunity in the face of another genocide that is being effectively silenced and sanitized.

The following authoritative legal analysis, findings, and conclusions — anchored in a critical mass of evidence — serve as a wake-up call for the international community, while putting the *genocidaires* and their sponsors on notice that they will be held accountable. This report provides the substantive legal framework for international institutions, NGOs, governments, parliaments, and courts to act upon.

The responsibility to prevent, punish, and put an end to genocide is not a policy option, but an international legal obligation of the highest order. The comprehensive independent inquiry and accountability framework presented in this report will guide the international community to end the violence by holding the most responsible actors to account while facilitating the healing process on the long road towards transitional justice and democracy.

The prevailing culture of indifference, impunity, and complicity enabled the current escalation of violence to reach the point of genocide. But today we can no longer look away and say we do not know.

We now know and we must act.

Honourable Irwin Cotler

International Chair, Raoul Wallenberg Centre for Human Rights
Former Minister of Justice and Attorney General of Canada
Montreal, QC

Preface by Mukesh Kapila

I personally witnessed the last genocides of the 20th century in 1994 Rwanda and 1995 Srebrenica. My career also took me to the site of the 1975 Cambodia genocide. And so, cries of “never again, not on my watch” were burnt into my psyche as I arrived in Sudan to head the United Nations in 2003. A year later I was hounded out for making myself a nuisance while trying to stop the first genocide of the new century.

The hallmark of the Darfur genocide of 2003-4 was that it was the first of our interconnected digital age. Flying over Darfur, I could see what was happening and verify reports from field staff. At the click of my smartphone, harrowing images and gruesome testimonies were instantly transmitted via my pilot’s satellite connection to UN headquarters and Security Council capitals. All in real time.

Never before had we gathered information so quickly and learned so much, or communicated so fast, even as mass atrocities multiplied on the ground. Ignorance was, therefore, not an excuse and there could have been no quicker early warning. That is why Darfur in 2003 was a highly preventable genocide. Or at least its worst effects could have been mitigated through early action.

But it was not to be. Against the background geopolitics of that time – the Iraq war – it was, as senior diplomatic interlocutors told me, an “inconvenient genocide” that the world was reluctant to tackle. By the time it was obliged to engage, thanks to media and advocacy, the evil was well and truly done. “Never again” had happened again.

This report from the RWCHR is, in some ways, a reality foretold. The events of 2023-24 described herein were bound to occur because history generally repeats itself, unless decisively interrupted.

That did not happen in Darfur. The UN Security Council acted belatedly in 2004-5 to send peacekeepers and refer the situation to the International Criminal Court, which indicted the principal alleged perpetrators including the then head of state, although accountability and justice were never properly served.

Justice delayed became justice denied and, in practice, justice aborted. The leaders of the original Darfur genocide went on to enjoy senior roles in the Government of Sudan (GoS) and security forces. Impunity reigned supreme, and the original criminals against humanity – called ‘Janjaweed’— remained free and flourishing to offend again.

Re-labelled as the RSF, they used the next twenty years to modernise their weaponry, update their tactics, polish their hateful rhetoric, refine their intelligence and communications, and professionalise their command-and-control structures. They also invested in their economic and political support base as well as lucrative partnerships because they had learned from experience that genocide is a complex and costly venture.

Thus, as this independent investigation outlines in painful detail, when the RSF struck in 2024, they were even more deadly and efficient in targeting their venom at the same ethnic groups as the Janjaweed had done in 2003-4.

The only surprise was among complacent observers who thought that Sudan could somehow turn the corner without accountability for the original Darfur genocide. They were keen to brush this under the carpet in their indecent haste to make shabby deals with the increasingly prosperous genocidaires. Thus, justice was traded away for the flimsy promise of democracy, peace, and prosperity that, of course, never came.

Those who pushed this policy were poor students of history which has shown, time and again, that in cases of genocide, history cannot be squared so easily.

For example, the Holocaust in 1940s Europe followed earlier periodic purges against the Jews. Similarly, ethnic violence of progressive ferocity struck Rwanda every decade for some forty years before the genocide of 1994. A similar phenomenon was observed with the massacres in Ottoman times until the 1920s genocide against Armenians. The Cambodian genocide of 1975 had distinct precursors that were neglected.

Modern Germany, Rwanda, and Cambodia may, like all nations, have their imperfections. But they are in a very different place now compared to their time as incubators of genocide. That is because active post-genocide measures were instituted to ensure accountability and justice along the long route to healing, recovery, and societal immunisation against recurrence.

The Ottoman Empire disappeared and, while its successor state of Turkey remains ambivalent on the past, the independent state of Armenia is testimony to another encouraging historical lesson – genocides cause immense suffering but eventually fail.

The progression of history has a logic that cannot be wished away by ignoring what is unpalatable or inconvenient. History's iron rule is that it must always be squared, and its debts cleared, before societies can move on to make new histories.

This report does a great service by laying bare the sordid facts and figures that underlie the inevitable repetition of the original Darfur genocide. But there is an important difference to clarify.

The international community was able to intervene to oppose the genocidal events of my time in Sudan twenty years ago. It was late but it tried. In the current age, the converse is true. Today's Darfur genocide is not just home-grown as in the past. It is directly and indirectly abetted by powerful external stakeholders that make it much more difficult for the United Nations or African Union to act in a decisive manner. Hence, it gets more convenient to deny or ignore what is going on. This is a reversal of the usual order: out of mind becoming out of sight.

That is how “never again” happened again, and will happen yet again in Darfur. Until this toxic cycle is decisively interrupted. We know what is needed to do that. But when that will happen is still tragically unclear.

Mukesh Kapila

UN Resident and Humanitarian Coordinator for Sudan, 2003-4

Executive Summary

1. A mere twenty years after the first genocide of the 21st century unfolded in Darfur, the same perpetrators are committing the same atrocities against the same targeted groups with impunity.
2. This independent inquiry examines the evidence of atrocities targeting non-Arab groups in Darfur since the conflict in Sudan began on April 15, 2023, reaching five conclusions as to the relevant standing breaches of the Genocide Convention:
 - I. **Based on clear and convincing evidence, the Rapid Support Forces (RSF) and allied militias have committed and are committing genocide against the Masalit.** The RSF is carrying out systematic attacks and atrocities in West Darfur targeting non-Arab Masalit members. The only reasonable inference to be made from these patterns is an intent to destroy the Masalit group in whole or in part.
 - II. **Based on clear and convincing evidence, the RSF and allied militias have committed and are committing direct and public incitement to genocide.**
 - III. **Based on Conclusion I, all 153 State parties to the Genocide Convention are obligated to end complicity in and employ all means reasonably available to prevent and halt the genocide.** This independent finding of genocide triggers the legal obligations of all States parties to the Genocide Convention to end complicity in, prevent, and punish the genocide.
 - IV. **Based on clear and convincing evidence, the following actors are complicit in the genocide, in standing breach of Art. III(e): Sudan, the UAE, Libya, Chad, the Central African Republic (CAR), and Russia via the actions of the Wagner Group under its effective control.** The UAE, Russia via the Wagner group, Chad, the CAR, and Libya are complicit in the genocide by providing the RSF with extensive financial, political, and military support, directly fueling the genocide.
 - V. **There are reasonable grounds to believe the RSF and allied militias are responsible for genocide against non-Arab groups other than the Masalit, including the Fur and Zaghawa.**
3. This report establishes the authoritative legal grounds to hold the principal perpetrators and enablers of the genocide against the Masalit and other non-Arab groups to account.
4. The evidence in this report can also be used to inform investigations into war crimes and crimes against humanity perpetrated by the RSF and the Sudanese Armed Forces (SAF).

Five Conclusions

01

Based on clear and convincing evidence, the Rapid Support Forces (RSF) and allied militias have committed and are committing genocide against the Masalit.

The RSF is carrying out systematic attacks and atrocities in West Darfur targeting non-Arab Masalit members. The only reasonable inference to be made from these patterns is an intent to destroy the Masalit group in whole or in part.

02

Based on clear and convincing evidence, the RSF and allied militias have committed and are committing direct and public incitement to genocide.

03

Based on Conclusion I, all 153 State parties to the Genocide Convention are obligated to end complicity in and employ all means reasonably available to prevent and halt the genocide.

This independent finding of genocide triggers the legal obligations of all States parties to the Genocide Convention to end complicity in, prevent, and punish the genocide.

04

Based on clear and convincing evidence, the following actors are complicit in the genocide, in standing breach of Art. III(e): Sudan, the UAE, Libya, Chad, the Central African Republic (CAR), and Russia via the actions of the Wagner Group under its effective control.

The UAE, Russia via the Wagner group, Chad, the CAR, and Libya are complicit in the genocide by providing the RSF with extensive financial, political, and military support, directly fueling the genocide.

05

There are reasonable grounds to believe the RSF and allied militias are responsible for genocide against non-Arab groups other than the Masalit, including the Fur and Zaghawa.

Introduction

The world's largest humanitarian catastrophe is unfolding in Sudan, while the world largely stands by in indifference. A countrywide famine looms, threatening to drive 7 million people to catastrophic levels of food insecurity (IPC Level 5) by June.¹ At present, 17.7 million people overall, or 37% of the population, are suffering high levels of acute food insecurity,² and 25 million people are in need of humanitarian aid, including more than 14 million children.³

In February, Médecins Sans Frontières (MSF) estimated that a child dies every two hours in the Zamzam Internally Displaced Persons (IDP) camp, one of the largest camps in the region.⁴ The UN predicts that nearly 230,000 children, pregnant women, and new mothers will likely die from hunger if current funding gaps are not addressed.⁵ More than eight million are displaced, including close to four million children.⁶ The mounting victims of violence and outbreaks of fatal diseases face a decimated health care system, where 70-80 % of hospitals are no longer functional.⁷

The minimal attention on Sudan has predictably resulted in an unconscionable scale of neglect. At present, the humanitarian response plan for this year has abysmally received about 5% of the minimum funding required to meet these needs.⁸

The conflict that broke out in April 2023 between the SAF and the RSF turned a pre-existing humanitarian crisis into an emergency of unprecedented and global magnitude. The war is often portrayed as a power struggle between Abdul Fattah al-Burhan, SAF's commander in chief, and Mohamed Hamdan Dagalo (*alias* Hemedti), the commander of the RSF.

In Darfur, however, the violence is of a different nature, where the RSF had long had a significant presence. The RSF is systematically targeting non-Arab ethnic groups for destruction in whole or in part, particularly in West Darfur State. The UN Special Adviser on the Prevention of Genocide has already sounded the alarm on the spectre of genocide since October 2023.⁹ The victims of these targeted atrocities are primarily from the *Masalit, Fur, Zaghawa, Bargo, Tunjor*, and other non-Arab tribes in the West, South, North, East, and Central Darfur States. The non-Arab ethnic groups of Darfur are now in a state of extreme vulnerability, without any force willing or able to protect them.¹⁰

The RSF is a direct successor of the Janjaweed, the perpetrators of the Darfur genocide in the early 2000s. Today, the same crimes are being committed by the same perpetrators against the same victim groups in the same geographic area. The key difference is that the RSF's military capabilities are more destructive today after building its capacity through long-standing government support, advanced technology, and the acquisition of sophisticated weaponry, including Unmanned Combat Air Vehicles (UCAVs).¹¹

This report is the first comprehensive examination of the recent atrocities in Darfur using the framework of Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention or the Convention).

The focus of this report is not intended to suggest one group of victims is more deserving of humanitarian response or justice than any other affected by this conflict. All victims must be treated with equal urgency and priority in the provision of humanitarian aid and reparations.

The purpose of this report is to provide the public with a substantive, evidence-based inquiry into the conduct of the actors most responsible for breaches of the Genocide Convention in Darfur and to articulate the legal implications that follow.

The duty to act on these clear conclusions and halt another genocide rests on everyone.

Methodology

Since the start of the conflict on April 15, 2023, the RWCHR sought to draw attention to the rising tide of violence in Darfur and the need to adopt effective responses through public and private advocacy.

Following investigations into targeted massacres and sexual violence in El Geneina, the RWCHR convened a multidisciplinary group of more than 100 experts to alert the international community to the serious risk of genocide and the corresponding duty to act.

In December, the RWCHR began conducting consultations with more than ten of the most authoritative experts in multidisciplinary fields engaged in atrocity prevention and accountability in Darfur, including former UN officials, human rights monitors, and international jurists. Many experts confirmed that the current cycles of violence in Darfur reflect the same patterns of the early 2000s.

The evidence in this report is entirely drawn from open-source intelligence of the atrocities committed in the Darfur region between April 15, 2023 and April 2024. This report primarily examines events in West Darfur State, given the ethnically motivated and extreme nature of the attacks there. It also covers select incidents in South, Central, and North Darfur states to demonstrate consistent patterns.

The factual findings should be read in light of standing obstacles to documentation, including obstruction of humanitarian routes, prolonged nationwide electricity and internet outages, and targeted executions of human rights monitors.

This report only examines the question of whether relevant States or non-State actors bear responsibility for breaches of the Genocide Convention, including commission, direct and public incitement, complicity, and failure to prevent genocide. The report further applies the jurisprudence of international courts and UN fact-finding missions as sources of law and interpretation. The report applies legal standards that differ from the high bar required by criminal trials since the report examines obligations arising from a treaty. Therefore, this inquiry applies two distinct standards of proof: clear and convincing evidence and reasonable grounds to believe.¹²

Darfur Contextual Background

Darfur is Sudan's largest region (approx. 503,180 sq. km), bordering Libya on the north, Chad on the west, Central African Republic on the south, South Sudan on the southeast, and the Sudan's Kordofan region on the east.

Darfur is home to 80 tribes and ethnic groups, mainly comprised of nomadic and sedentary groups.¹³ Darfur is divided into five states: North Darfur (capital El Fasher), West Darfur (capital El Geneina), South Darfur (capital Nyala), Central Darfur (capital Zalingei), and East Darfur (capital El Daein). Each state is governed by a Governor (*Wali*), who is appointed by the Government of Sudan (GoS) and is supported by a local administration.¹⁴

The region is further divided into historical homelands (*Hawakeer*) for different groups, comprising their foundational, cultural essence, links to the land, and way of life. The Masalit homeland is mainly in West Darfur State.¹⁵ In addition to the Masalit, the Zaghawa also inhabit northern parts of West Darfur and some western parts of North Darfur State.¹⁶ The Fur homeland is in Central Darfur in the Jebel Marra area, but the group is also represented across all states. The majority of Darfur's population lives in small villages.

Map of Sudan



Before 1985, when conflicts arose between non-Arab farmer communities and nomadic Arab herders, they were generally resolved by local leaders, rendering protracted conflict rare.¹⁷ However, in the mid-1980s, the GoS replaced the tribal councils and traditional conflict resolution mechanisms with government bodies, largely derived from, and partial to, the Arab population.¹⁸ By the late 1980s, various Arab herder groups began attacking non-Arab farmer villages. The attacks became increasingly violent throughout the 1990s, causing more than 100,000 Masalit to flee to Chad by 1998.¹⁹

By 2000, through the widely disseminated manifesto, *The Black Book: Imbalance of Power and Wealth in Sudan*, the extreme marginalization, underdevelopment, and impoverishment of West Darfur relative to the rest of the country became widely known.²⁰ In response to the increasing attacks by Arab nomads, a small popular resistance movement emerged, first through the Sudan Liberation Movement and then through the Justice and Equality Movement. Both movements drew participation primarily from members of the Fur, Masalit, and Zaghawa groups.²¹

A History of Genocidal Attacks

Beginning in 2003, the GoS and Janjaweed forces systematically attacked non-Arab communities, primarily the Masalit, Fur, and Zaghawa, burning entire villages, and committing systematic killings, rape and sexual violence, and forcible displacement, among other crimes— all under the false pretext of targeting rebels.²² The attacks were also designed to destroy these groups' means of survival and essential infrastructure, targeting wells, water pumps, crops, livestock, and grain stores.²³ The most extreme destruction took place in areas predominantly inhabited by Fur, Masalit, Zaghawa, and other non-Arab groups.²⁴

The results of international investigations, including that of the ICC in issuing its first and only arrest warrant for genocide, attest to the consistent pattern of attacks: initial aerial bombardment followed by Janjaweed militias arriving on horse or camel in coordination with SAF vehicles encircling and then attacking villages.²⁵ The Janjaweed was responsible for most of the destruction, either independently or with government support.²⁶

The UN and medical researchers estimated a death toll of at least 300,000 from the conflict between 2003 and 2008 caused by violence, disease, and starvation.²⁷ There has been no subsequent mortality assessment by the UN, despite an unabated pattern of violence.

In 2003, Tom Vraalsen, the UN Secretary General's Special Envoy for Humanitarian Affairs for Sudan, described the situation in Darfur as "nothing less than the 'organized' destruction of sedentary African agriculturalists – the Fur, the Massalit and the Zaghawa."²⁸ By March 2004, the then-UN Resident and Humanitarian Coordinator in Sudan, Mukesh Kapila, echoed this conclusion, comparing the atrocities to the Rwandan genocide, calling it "an organised attempt to do away with a group of people."²⁹

Despite clear early warning signs of genocide, the international community, and specifically the UN Security Council, failed to take any concrete measures to protect the populations at risk.³⁰ At the height of the genocide, major powers downplayed the atrocities in an attempt to prioritize the peace process between North and South Sudan, at the expense of defenseless victims in Darfur.³¹

In June 2007, the GoS finally allowed the hybrid African Union-UN Assistance Mission in Darfur (UNAMID) into the country, although the force was woefully under-resourced and incapable of effectively protecting civilians.³² On May 2, 2007, the ICC

issued arrest warrants against Ahmad Muhammed Harun (Ahmed Haroun), former Sudanese Minister of Humanitarian Affairs, and Ali Muhammed Ali Abd-Al-Rahman (a.k.a Ali Kushayb), a senior leader of the Janjaweed since 2003, and on March 1, 2012 against Abdel Rahim Muhamed Hussein, Minister of the Interior. However, the absence of effective cooperation with the ICC or a transitional justice process has allowed the same actors to continue committing the same atrocities with impunity.

In the early 2000s, the Janjaweed were deeply embedded in the SAF and later received formal government backing, including official identification cards and training.³³ Many of their commanders, including Hemedti were promoted within the former National Intelligence and Security Services (NISS).³⁴ In 2013, the Janjaweed transitioned to the RSF when the former President Omar al-Bashir sought to give the group institutional legitimacy as an independent security force.³⁵ RSF fighters were initially assigned to be border guards, and later became mercenaries for the Saudi Arabia-led intervention in the war in Yemen.³⁶

From 2013 until today, the RSF has continuously attacked non-Arab communities and villages throughout Darfur. For example, during the RSF-led so-called “counterinsurgency” campaigns in Darfur of early 2014 and 2015 (Operation Decisive Summer I and II), they burned entire villages, systematically raped women and girls as policy (according to defectors), committed mass killing, and destroyed water sources.³⁷ It should be noted that the SAF also carried out atrocities during this time, including mass rape.³⁸ From January to September 2016, GoS forces (comprised of SAF, RSF, and other militias) relentlessly carried out attacks in the Jebel Marra area, destroying hundreds of villages (overwhelmingly without the presence of armed opposition) and repeatedly using chemical weapons.³⁹

On April 11, 2019, al-Bashir was overthrown in a military coup after months of nationwide protests. In the aftermath, a transitional military council was set up, led by General al-Burhan and Hemedti.

After the fall of al-Bashir in 2019, West Darfur became the epicentre of ongoing killings of members of non-Arab ethnic communities, mainly by the RSF and allied Arab militias against the Masalit.⁴⁰ Despite the new regime, protestors continued to conduct sit-ins, demanding the transfer of power to civilian rule. On June 3, 2019, the RSF and other security forces committed a brutal massacre of protestors sitting close to army headquarters in Khartoum.⁴¹ On August 17, 2019, a power-sharing deal was signed for a Transitional Sovereign Council (TSC) to govern for three years, to be followed by democratic elections.⁴²

During the supposed democratic transition, the RSF continued to commit systematic and widespread abuses against non-Arab populations across Darfur, especially in West Darfur. Since 2019, the RSF and allied militias have carried out waves of attacks against civilians in West Darfur, particularly Masalit communities, killing hundreds and displacing tens of thousands.⁴³ In South and Central Darfur, they have engaged in similar patterns of atrocities in Gereida,⁴⁴ Kas,⁴⁵ Nertiti,⁴⁶ and other areas. During this period, in North Darfur State, Arab militias further killed innocent civilians, mainly in Fata Borno,⁴⁷ Kutum,⁴⁸ and Tawila.⁴⁹

The Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)

The prohibition of genocide is a well-established peremptory norm (*jus cogens*) enshrined in the Genocide Convention.⁵⁰ Sudan became a State party to the Convention in 2003.⁵¹ State obligations under the Genocide Convention to prevent, punish, and not commit genocide are owed to the international community as a whole (*erga omnes*).⁵²

Article II of the Genocide Convention defines genocide as follows:

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;*
- (b) Causing serious bodily or mental harm to members of the group;*
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- (d) Imposing measures intended to prevent births within the group;*
- (e) Forcibly transferring children of the group to another group.*

Article III provides for the punishable acts of:

- (a) Genocide;*
- (b) Conspiracy to commit genocide;*
- (c) Direct and public incitement to commit genocide;*
- (d) Attempt to commit genocide;*
- (e) Complicity in genocide.*

The Object and Purpose of the Genocide Convention

The Vienna Convention on the Law of Treaties (VCLT), or the “Treaty on Treaties” is used to construe the terms of treaties, including the Genocide Convention. Article 31 of the VCLT provides:

A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.⁵³

Under established international law, the terms of the Genocide Convention must be applied according to their plain meaning in their context. The terms must also be construed in light of the object and purpose of the treaty, as expressly stated in the

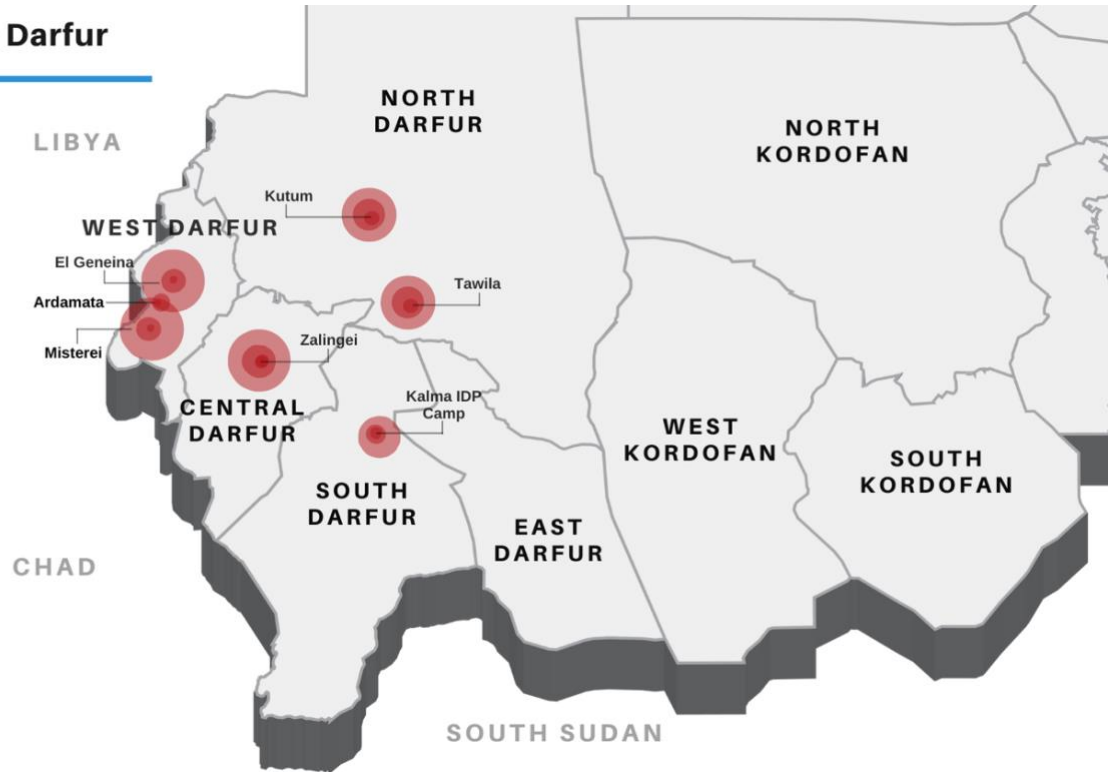
title and Article I: the prevention and punishment of genocide. Article I of the Genocide Convention reads:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.⁵⁴

According to the ICJ, the object of the Convention “is to safeguard the very existence of certain human groups.”⁵⁵ This ideal provides “the foundation and measure of all its provisions.”⁵⁶ As such, the Genocide Convention, and particularly the duty to prevent, must be implemented at a time when it is still possible to protect groups at risk of genocide.⁵⁷

Facts

Attacks in Darfur



A. The Attacks in West Darfur

i. *El Geneina*

Between April 24 and June 17, 2023, the RSF and its allied Arab militias carried out more than fifteen coordinated attacks on the city of El Geneina with heavy artillery and close-range executions, primarily targeting Masalit areas,⁵⁸ and killing between 10,000 and 15,000 people, according to the UN Security Council Panel of Experts on the Sudan.⁵⁹ Survivors of the massacres consistently report being targeted explicitly because they were Masalit.⁶⁰ The total number of Masalit victims from these coordinated attacks will continue to emerge in the months ahead.

The RSF and its allied militias systematically attacked, burned, and destroyed IDP sites that hosted over 80,000 people, mostly Masalit, who had been displaced by prior attacks.⁶¹ They heavily shelled schools and mosques functioning as shelters for thousands of IDPs with artillery and mortar, and destroyed all medical facilities.⁶²

The RSF and its allied Arab militias besieged El Geneina, deliberately targeted the Masalit community, and destroyed their means of survival.⁶³ The RSF stationed roadblocks, checkpoints, and snipers throughout the city, preventing escape and confining the Masalit community to areas where essential civilian infrastructure was already destroyed.⁶⁴ Snipers shot at the confined population and even prevented them from collecting water to survive.⁶⁵

After asking to disclose their tribal affiliation, the RSF rounded up Masalit men for execution or detention for prolonged periods without food or water.⁶⁶ The attackers marched through the streets hunting down and calling the Masalit *Anbai*, or slaves.⁶⁷ According to survivors, the militias interrogated Masalit members to identify the men and boys for execution.⁶⁸ Dozens of women reported that infants were shot at a close range.⁶⁹ Some watched as infants as young as six months old were beaten to death.⁷⁰ Several witnesses confirmed seeing children having their throats slit.⁷¹

At the same time, the RSF and allied militias repeatedly subjected non-Arab women and girls to rape and sexual violence. By June 20, the Darfur Bar Association (DBA) described the situation in El Geneina as a “full-scale genocide.”⁷²

The Execution of the Masalit Governor and Mass Forced Displacement

Thousands took refuge in the El Geneina district of *Al Madaris* near the office of the Governor (*Wali*) of West Darfur, Khamis Abdallah Abakar, where Masalit fighters sought to protect the people sheltering there.⁷³

However, on June 14, 2023, the RSF and allied Arab militia murdered the Governor after he was seen detained by the RSF’s West Darfur commander, General Abdul-Arahman Juma Braktallah, suggesting a premeditated and publicized assassination.⁷⁴ The Governor was executed and mutilated a few hours after an interview in which he decried the “ongoing genocide,” calling for “international intervention to protect the remaining population.”⁷⁵

Following the execution of the Governor, a mass exodus took place from El Geneina to Ardamata (6 km northwest of El Geneina, where 70,000 fled) and Adré, Chad.⁷⁶ Between June 14 and June 17, approximately 12,000 people fled to Adré on foot.⁷⁷ During this period, the United Nations Office of the High Commissioner for Refugees (UNHCR) reported that 98% of refugees arriving in Chad registered as Masalit.⁷⁸ Nearly 70% of El Geneina residents fled.⁷⁹ It is unclear how many Masalit members stayed in the city that was once home to approximately 540,000 people, mostly Masalit.⁸⁰

The RSF and its allied Arab militia continued to deliberately target the fleeing Masalit, interrogating displaced persons at checkpoints about their ethnicity and singling out Masalit men and boys to be summarily executed at close range.⁸¹ At checkpoints, the RSF and its militiamen inspected the genitals of passing children, murdering boys and infants on the spot with gruesome methods and expressing a consistent intent to prevent them from becoming fighters.⁸² Many Masalit women attempted to save their male children by draping them in *Abayas* (female garb).⁸³ Others survived by claiming they belonged to other tribes or ethnicities.⁸⁴

One survivor recalls:

The militiamen ask those fleeing about their tribal background. Masalit are not allowed to cross the border to Chad... Members of other tribes are allowed to cross the border but are subject to inspection. There are more than ten militia checkpoints within thirty kilometers on the way to the Chadian border, where the people's mobile phones and money in their possession are taken from them.⁸⁵

When thousands of people from the Masalit and non-Arab communities seeking refuge in Ardamata reached the al-Shati area and al-Nasim bridge, the RSF open fired on the convoy, killing an estimated 1,000 people.⁸⁶ The RSF killed hundreds more who fled the attack, mostly women and children.⁸⁷

ii. The Attack on Misterei

Since 2019, Arab militiamen have repeatedly attacked the city of Misterei (42 km southwest of El Geneina), targeting the Masalit. For example, on the day of July 25, 2020 alone, Arab militiamen and the RSF attacked the town, killing more than 60 Masalit civilians and injuring others.⁸⁸

In late April 2023, the SAF withdrew from Misterei. On May 26-27, the RSF and allied militias mobilized along the outskirts.⁸⁹ On May 28, 2023, waves of RSF fighters and their allied militias stormed the city in a coordinated attack.⁹⁰ The perpetrators came on pickup trucks, motorcycles, horses, and foot. The RSF and the allied Arab militias killed nearly 100 residents, summarily executed dozens of ethnic Masalit men at close range and shot at anyone attempting to flee.⁹¹ The attackers pillaged property and medical supplies, set fire to tens of thousands of Masalit houses, and killed others in their homes and on the streets.⁹²

According to the World Food Programme (WFP), thousands of people fled to Adré; many were wounded and carried only their children.⁹³ Along with Misterei, satellite imagery analyses detected six other West Darfur Masalit towns and villages reduced to ashes, burning children alive in many instances.⁹⁴

iii. The Attack on Ardamata

Ardamata is an area in the northeast outskirts of El Geneina. The site was expected to serve as a shelter for non-Arab Masalit who were forced to leave their homes after repeated attacks by the RSF and allied militias.⁹⁵ Between November 1-3, 2023, more than 8,000 people, primarily Masalit women and children, fled to Adré, Eastern Chad.⁹⁶ The attack on Ardamata escalated after RSF fighters and allied Arab militias took over the 15th Infantry Division, a garrison belonging to the SAF in El Geneina, on November 4, 2023.⁹⁷ The SAF evacuated and surrendered the night before without warning civilians, leaving Ardamata to the RSF.⁹⁸

The RSF and Arab militias negotiated a deal with local tribal leaders to surrender all rifles in the IDP camp in exchange for safe passage out of El Geneina. When the weapons were handed over and the population was at its most vulnerable, however, the RSF and allied militias besieged the area and pursued a coordinated plan to

systematically kill Masalit and other non-Arab boys and men.⁹⁹ For six days (November 4-10, 2023), the RSF attacked tens of thousands of civilians, primarily Masalit, but also other non-Arabs.¹⁰⁰ They set homes on fire and went door to door rounding up Masalit men to be tortured, detained, killed, and even mutilated.¹⁰¹ The RSF left some families without any male survivors.¹⁰² According to UN estimates, on November 5, 2023 alone, the RSF and its allied Arab militias summarily executed at least 66 Masalit men.¹⁰³ The RSF and its militiamen also publicly subjected women and girls to torture, rape, and other forms of sexual violence.¹⁰⁴

Further, the perpetrators deliberately targeted civilian gatherings, hospitals, IDP camps, schools, mosques, water pumps, and all means of survival. Witnesses reported a soccer field, airport, and bridge being used as torture and killing grounds to execute hundreds of Masalit boys (as young as 12 years old) and men, including episodes of militiamen hacking dozens of male Masalit members to death with axes and machetes.¹⁰⁵ According to the UN, some were burned alive.¹⁰⁶ Surviving boys were carefully smuggled out in *Abayas* or female garb, demonstrating the categorically known imminent danger facing the male Masalit population.¹⁰⁷

According to the DBA, more than 1,500 people were killed in the attack on Ardamata (others estimate 2,000 killed),¹⁰⁸ and 750 others were imprisoned, including SAF soldiers, whose whereabouts remain unknown.¹⁰⁹ The UN Panel of Experts on Sudan received reports of at least three mass graves.¹¹⁰ The RSF executed at least two prominent Masalit leaders, or *Farsha*, including one of the oldest leaders in the region, Mohammed Arbab, his son, and eight of his grandchildren.¹¹¹ The RSF further held groups of hundreds of non-Arab boys and men at detention camps across El Geneina, torturing them with whips and wooden rods, and repeatedly asking “are you Masalit?”¹¹²

Mass Forced Displacement of Masalit to Chad

Tens of thousands of ethnic Masalit have been forced to flee during the period in question. The RSF ambushed and open fired on fleeing civilians, interrogated displaced persons at checkpoints about their ethnicity, and prevented most Masalit men from passing.¹¹³ By contrast, the RSF allowed fleeing men from Arab families to pass.¹¹⁴ Videos recorded by RSF fighters, and their allied Arab militias reveal that their fighters harassed, searched, robbed, and physically assaulted civilians who were seeking to escape.¹¹⁵

Mass Graves

After the June and November 2023 massacres, the RSF and its allied Arab militias undertook operations to conceal their atrocities, forcing members of non-Arab groups to discard thousands of bodies in mass graves and confiscating the cell phones of survivors to prevent evidence from being shared with the outside world.¹¹⁶ One Sudanese Red Crescent volunteer reported loading 400 bodies in one week, including women and children, many with bullet wounds to the head.¹¹⁷ From late April until mid-June, at least 1,000 bodies were buried in al-Ghabat cemetery.¹¹⁸ Dozens of eyewitness accounts confirm that the burial of Masalit bodies in El

Geneina lasted for weeks due to the high number of bodies.¹¹⁹ As one eyewitness recalled: “there was nothing there except for corpses and horrific scenes.”¹²⁰

In July 2023, the UN documented the existence of a mass grave of ethnic Masalit killed by the RSF and its allied Arab militias outside of El Geneina.¹²¹ In September 2023, the UN Integrated Transition Assistance Mission in Sudan (UNITAMS) reported the discovery of at least 13 mass graves of civilians, the majority from the Masalit community, in and around El Geneina, as a result of RSF attacks.¹²² Upon revealing the discovery of the mass graves, the head of UNITAMS also announced his resignation, signalling an overwhelming failure by the UN’s dedicated mission.¹²³

Satellite imagery analyses, investigative reporting, and community leaders corroborated the marked expansion of mass graves around El Geneina during the violence.¹²⁴ In Ardamata, during the height of the mass killing targeting non-Arab boys and men, satellite imagery revealed an expanding cemetery with surrounding fires and burned structures, indicating an attempt to conceal the carnage.¹²⁵

B. The Attacks in North Darfur

i. Attacks in Kutum

On June 4, 2023, the RSF and its allied Arab militia overran the city of Kutum (120 km northwest of El Fashir, North Darfur State’s capital), destroying homes, looting the market, killing more than 40 people, and wounding dozens of others, including individuals in the Kassab IDP camp.¹²⁶ According to DBA, the attack on the Kutum locality led to the mass displacement of civilians to the *Hashaba* area.¹²⁷ The Darfur regional governor, Minni Minawai, described the RSF’s atrocities in Kutum as similar to those in West Darfur.¹²⁸

ii. Attacks in Tawila

The Tawila town (about 75 km southwest of El Fashir), mainly populated by the Fur, has long been the site of SAF and Janjaweed/RSF attacks, who labeled civilians as rebel sympathizers. In 2004 and 2005, Musa Hilal, a key Janjaweed leader, led various attacks in the area as part of his overall declared objective to “kill all blacks in the area and to give the Arab people freedom by clearing the land.”¹²⁹ Following the rebranding of the Janjaweed as the RSF, the paramilitary group increased its violence in the area.

On June 18-19 2023, the RSF and its allied Arab militias overran Tawila from all directions, and nearby areas, and killed civilians, raped women, razed the market, and burned properties.¹³⁰ As a result, tens of thousands of people were displaced.¹³¹ As in previous years, the RSF and its allied Arab militias directed their attacks primarily against the Fur and Zaghawa with the same *modus operandi*.

C. The Attacks in Central and South Darfur (Zalingei and Kalma IDP Camps)

As the RSF advanced across Central and South Darfur, they carried out systematic campaigns of sexual violence and rape, including gang rape, against non-Arab women and girls as young as 12 years old, who were often caught moving in and out of IDP camps to support their families and communities.¹³² Some Fur women were subjected to rape immediately after revealing their backgrounds under interrogation.¹³³

In September 2023, the RSF besieged and shelled Zalingei's Hasahisa camp, where the Fur represented the majority.¹³⁴ The RSF committed widespread rape and prevented male youth from escaping during its takeover of Zalingei.¹³⁵ According to emerging evidence, the RSF and its allied militias inflicted additional collective punishment on the Fur in and around Zalingei by kidnapping its leaders and demanding ransom for their release. Further, the RSF have extorted IDPs for "protection" by threatening to loot and burn down of their camps if they fail to pay.¹³⁶

Similarly, the RSF and allied militias attacked the severely overcrowded Kalma IDP camp in South Darfur State, housing 500,000 IDPs who fled violence in Nyala, Wadi Salih, and other areas in South and Central Darfur states. By October, the RSF besieged the camp, prevented IDPs from leaving, and subjected IDP women and girls to sexual violence and rape.¹³⁷ The RSF continues to deny the entrance of essential supplies, leading to the death of its inhabitants by depriving their means of survival, including hundreds of children.¹³⁸

Sexual and Gender Based Violence

The targeted use of rape and sexual violence against non-Arab groups in Darfur is a well-established policy of the GoS, Janjaweed, and other militias since the early 2000s.¹³⁹ During the latest round of fighting, the RSF has carried out a systematic campaign of rape and sexual violence against women and girls, particularly IDPs from the Fur, Masalit, and Zaghawa, including those fleeing violence.¹⁴⁰ These acts further constitute sexual violence against the militiamen forced into committing rape pursuant to RSF policy and systematic practice. The UN Panel of Experts confirmed the widespread and escalating sexual violence under RSF-controlled areas.¹⁴¹ According to the UN, the RSF and allied militias are responsible for 83% of all conflict-related sexual violence.¹⁴² The consistent patterns of evidence across Darfur point to a coordinated RSF strategy of the use of rape deliberately as a weapon of dehumanization and destruction targeting non-Arab ethnic groups. Nearly all victims of rape reported multiple RSF and allied perpetrators, who often commit the acts of sexual violence simultaneously and for days at a time.¹⁴³ Most of the incidents of sexual violence reported to the UN involved gang rape.¹⁴⁴

The RSF committed rape against non-Arab women and girls at gunpoint and through death threats, using racial slurs, in front of family members, and causing loss of consciousness, pregnancies, and death.¹⁴⁵ A 20-year-old girl testified that the RSF and its allied Arab militias “locked my mother, myself, and my sisters up for four days and they raped us.”¹⁴⁶ Another victim recounted being brutally beaten and kicked in the pelvis, indicating further targeting of reproductive capacity.¹⁴⁷ Victims overheard their captors boasting of their high murder and rape count.¹⁴⁸ In the context of committing sexual violence, the perpetrators repeatedly use racist, dehumanizing slurs, like *nuba* (non-Arabs) and *nawab* (slave), and even ask whether the victims are Masalit before subjecting them to extreme torture and rape, vowing to specifically kill Masalit men and rape Masalit women.¹⁴⁹ Masalit human rights defenders were at particular risk of being targeted with rape, where perpetrators explicitly told victims to halt their reporting on the RSF (e.g. “we know you are writing about the RSF on Facebook”).¹⁵⁰

Due to social stigma, the collapse of the health care system and communication lines, and risks of retaliation, the vast majority of victims cannot seek medical attention or report their accounts to relatives.¹⁵¹ As a result, any official numbers are vastly undercounted. The impunity is so deeply entrenched in Darfur that not even humanitarian institutions are exempt from being exploited as sites of sexual violence, including WFP facilities.¹⁵²

Enslavement

RSF fighters explicitly scorn members of non-Arab groups as slaves and other racial slurs during attacks, drawing on the history of the terms used to dehumanize the same victims of the genocide of the 2000s. This has translated into the increasing enslavement of non-Arab children in RSF-controlled areas, as carried out by RSF fighters and their allied Arab militias.¹⁵³ Across these cases, the RSF is exercising varying degrees of powers of ownership over enslaved victims, including control of

sexuality, sexual integrity, and sexual and reproductive autonomy¹⁵⁴ In November 2023, the UN expressed alarm over women and girls held in “slave-like conditions” under RSF control in Darfur.¹⁵⁵ Women and girls were abducted, held for several days and repeatedly raped during detention, and sold at brothels for as little as 10 USD to be held as sex slaves.¹⁵⁶ There are further reports of militia fighters forcing Masalit individuals into domestic servitude.¹⁵⁷

Legal Analysis Protected Group[s]

The Masalit, Fur, and Zaghawa are indisputably distinct protected ethnic groups under the Genocide Convention, each having their own language, traditions, and links to their lands. The ICC Pre-Trial Chamber confirmed this finding in 2010 by issuing an arrest warrant against al-Bashir for genocide.¹⁵⁸

Genocidal Incitement and Intent

Under the Genocide Convention “direct and public incitement to commit genocide” is a punishable act under Art. III (c) and constitutes a distinct breach. According to international criminal jurisprudence, direct and public incitement to commit genocide is a crime in and of itself under the Genocide Convention, whether or not genocide or genocidal acts follow.¹⁵⁹ A finding of incitement rather depends on “the *potential* of the communication to cause genocide.”¹⁶⁰ The elements of the crime include: (1) public, (2) direct, (3) incitement (encouragement or provocation to commit genocide), and (4) the intent to destroy, in whole or in part, the protected group, as such.¹⁶¹

The direct element does not require the message to be explicit, but depends on the context, particularly during war, or an already “explosive situation,” when fighters are conditioned to respond to specific messages with ethnically-motivated, targeted violence.¹⁶² Other factors to consider include the audience’s susceptibility to commit genocide, the historical and social context of the messages, whether the targeted group suffered recent violence, and the availability of alternative sources of information.¹⁶³ Common hallmarks of incitement to genocide include dehumanization, accusing the targeted victims of plotting or committing atrocities (“accusation in a mirror” or AIM), and condoning or celebrating violence.¹⁶⁴

The forms of incitement used by the Janjaweed (now the RSF) to target members of non-Arab groups in Darfur go back decades.¹⁶⁵ In fact, early on, the GoS recruited Arab militias by framing the conflict in Darfur in racial terms (against black Africans), which culminated in rape, torture, and massacres of the same groups against whom the recruiters had ranted. According to survivors, the Janjaweed expressed genocidal intent and explicitly used dehumanizing terms while engaged in mass killing and rape, declaring an intent to “eradicate the Nuba (Black Africans),”¹⁶⁶ calling their victims slaves, Blacks, or *Zurga* (racist term),¹⁶⁷ and shouting “exterminate the Fur, kill the Fur” or “kill the *Nuba* (Africans)!”¹⁶⁸

Terms like *anbai* (slave), *Zurga*, *Abeed* (slaves) and *Nuba* have been used when referring to non-Arab people in Darfur across several generations. This longstanding pattern of dehumanization has psychologically conditioned RSF recruiters and commanders to order atrocities, and fighters to follow through on such orders with little restraint. Many RSF recruiters and commanders are also tribal leaders (*Amirs* or *Agids*),¹⁶⁹ giving them significant influence over Arab citizens, especially women and children.

During the Ardamata massacre, the RSF went door to door, demanding their victims’ ethnicity and calling them “*abeed*” (slaves) or “*nawab*,” before killing them, demonstrating a direct link between the use of racially charged epithets and mass killing.¹⁷⁰

The consistent use of these terms by the RSF immediately before and during acts of extreme violence against members of non-Arab groups is combined with a blanket

perception of non-Arab boys and men as current and future fighters against Arabs, and therefore, existential threats to be eliminated.

The incitement is so pervasive and powerful as to indoctrinate and instigate fighters to commit atrocities with the most extreme brutality against non-Arab victims, including slitting the throats of children and clubbing infants as young as six months old to death in front of their families and communities.¹⁷¹

The following account demonstrates the extent to which the construction of non-Arab boys as existential threats influences RSF fighters to exterminate them. In June, when a Masalit woman fled a massacre against her people, including her husband, in El Geneina, Arab forces inspected the genitals of her two-year-old child, Ibrahim, and then proceeded to bash him to death with wooden rods.¹⁷² When she tried to intervene, the men shot her and told her “you *zurga* won’t stay in El Geneina... if the boy grows up, he will fight us.”¹⁷³

More than forty mothers shared similar accounts of their children, mostly boys, shot or beaten to death.¹⁷⁴ The brutality and ruthless nature of these collective murders demonstrate how deeply ingrained the belief that non-Arab people are less-than-human is. These acts of violence send an unmistakable message of impunity to other RSF fighters. The manner in which the incitement terms immediately precede the brutal murder and rape of non-Arab victims demonstrates a direct link between incitement and genocidal acts committed with an intent to destroy the group in whole or in part (as established below).

The RSF, as an entity, is thus responsible for public and direct incitement to commit genocide.

The following non-exhaustive chart documents the continuity in the patterns of incitement to genocide, tracing back to the early 2000s. It can be used to empirically predict the nature of the atrocities flowing from the same forms of incitement today. The consistency and sheer number of outright eliminationist quotes by RSF fighters also points towards official RSF orders to destroy members of non-Arab groups or, at the very least, a policy adopting and accepting the pervasive rhetoric and foreseeable consequences. Further, RSF fighters and allied Arab militiamen document these statements themselves and widely publish them on social media platforms, including Facebook, X (formerly Twitter), TikTok, and others.

Incitement Chart

Genocidal Incitement and Intent to Destroy

Historical *Indicia* of Genocidal Intent and Incitement

Explicit

- “They called her Nuba, dog, son of dogs, and we came to kill you and your kids.”¹⁷⁵
- “The Fur are slaves, we will kill them.”¹⁷⁶
- “We will kill all the black.”¹⁷⁷
- “You donkey, you slave, we must get rid of you.”¹⁷⁸
- “We kill our cows when they have black calves—we will kill you too.”¹⁷⁹
- “We will kill any slaves we find and cut off their heads.”¹⁸⁰
- “We will kill every black thing.”¹⁸¹
- “This is the last day for blacks.”¹⁸²
- “We will destroy the black-skinned people.”¹⁸³
- Sudanese Vice President ordered hundreds of GoS and RSF fighters (as recalled by an officer) to: “clear the area east of Jebel Marra. To kill any male. He said we want to clear the area of insects... East Jebel Marra is the kingdom of the rebels. We don’t want anyone there to be alive.”¹⁸⁴
- “The government wants to finish all Black men and all Darfur people.”¹⁸⁵
- In August 2003, a military leader expressed at a meeting that “the Arab tribes ‘can wipe out the areas of the Fur, Zaghawa, and Masalit in a matter of one month.”¹⁸⁶

Indicia of Genocidal Intent and Incitement since April 2023

Explicit

- “Shoot, shoot the boys!”¹⁸⁷ (Arab militia, in reference to a group of fleeing Masalit refugees)
- During the RSF massacre in Ardamata, fighters stated outright that they wanted to “kill Masalit.”¹⁸⁸
- To single out Masalit for execution, Arab militias asked a group fleeing to Chad: “are you Masalit?”¹⁸⁹
- RSF Commander to fighters before executing a group of men rounded up and laid on the ground: “Shoot all of them.”¹⁹⁰
- RSF to sheltering civilians in Misterei: “Where are the men? Where are the boys? We want all of them! We want to kill them!”¹⁹¹
- “We will not leave any educated Masalit alive, we will finish you.”¹⁹²
- After rounding up boys and men on the Ardamata bridge, an RSF fighter said: “Execute them all.”¹⁹³
- RSF fighters chanting at Masalit in El Geneina: “You slave, we will end you and expel you from this city!”¹⁹⁴
- Arab militiamen asserting their intent to destroy Masalit boys after shooting boys as young as six months old: “The boys will grow up and they will kill us... so we must destroy them now.”¹⁹⁵

Incitement Chart

Genocidal Incitement and Intent	Historical <i>Indicia</i> of Genocidal Intent and Incitement	<i>Indicia</i> of Genocidal Intent and Incitement since April 2023
<p>Intent to Destroy</p> <p>Denying/ Condoning/ Congratulating/ Conditioning Violence</p>	<p>Implicit</p> <ul style="list-style-type: none"> • “We are going to cut off your roots.”¹⁹⁶ Janjaweed directive addressed to intelligence agencies: “change the demography” of Darfur and “empty it of African tribes.”¹⁹⁷ • In 2003, then-President al-Bashir said, “our top priority will be the annihilation of the rebellion and any outlaw who carries arms” days before a systematically violent January 2004 offensive.²⁰⁰ • Continuing to provide supplies, via helicopter, to Janjaweed bases despite widespread violence by mid-2004.²⁰¹ • “We want to change the color. Every woman will deliver red.”²⁰⁶ • “We will take your women and make them ours. We will change the race.”²⁰⁷ 	<p>Implicit</p> <ul style="list-style-type: none"> • After the RSF and militiamen executed a group of Masalit men at close range, an attacker warned a surviving Masalit man: “see how many we killed?”¹⁹⁸ • Graffiti in El Geneina: “This is Arab land.”¹⁹⁹ • At an Aug. 21, 2023 press conference, Arab tribal leaders denied committing atrocities.²⁰² • Leader of Arab Rizeigat tribe (comprising many RSF leaders) called rape allegations “empty lies.”²⁰³ • RSF leaders celebrating and chanting “victory.”²⁰⁴ • RSF purveying misinformation that the SAF distributes “weapons to the Masalit and Arab tribes, leading to a tribal conflict.”²⁰⁵
<p>Incitement to Prevent Births Within the Group/Destroy Reproductive Capacity</p>		<p>Implicit</p> <ul style="list-style-type: none"> • RSF perpetrator, in the context of committing gang rape, vowed the “Nuba” (referring to Masalit) will give birth to their children.²⁰⁸ • “After [we] rape [you], you will carry our babies [...] to change the non-Arab portion within the Sudanese blood.”²⁰⁹ • “We should rape the Nuba women until they give birth to our babies.”²¹⁰ • In three separate incidents, RSF fighters raped 20-year-old Masalit women after asking them their ethnicity and guessing they were Masalit when they denied it.²¹¹ • In the context of days of repeated gang rape: “If you are Nuba, I will rape you to death, if you are Arab, it is not a problem... I want you to be pregnant and deliver our baby.”²¹² • A rape victim who fled to Chad received a voice note from El Geneina: “We will find you in Chad. You are a slut. Whenever you come back to Sudan, we will do what we want with you.”²¹³

Incitement Chart

Genocidal Incitement and Intent Dehumanization

Historical *Indicia* of Genocidal Intent and Incitement

Subhuman

- “You blacks are like monkeys. You are not human.”²¹⁴
- “You black are not humans... We can do anything we want to you. You cannot live here.”²¹⁵
- “You are Zaghawa tribes, you are slaves”²¹⁶

Contamination

- “All the people in the village are slaves; you make this area dirty; we are here to clean the area.”²¹⁷

Indicia of Genocidal Intent and Incitement since April 2023

Racial slurs

- “You *zurga* [derogatory term for dark-skinned person] won’t stay in El Geneina.”²¹⁸
- “You gave yourself to that *nawab* [slave]. We will take our turn too or we will kill your son.”²¹⁹ (To an Arab mother of a dark-skinned child, before gang-raping her.)
- “This area belongs to us, not you, you are slaves.”²²⁰

Subhuman

- Before RSF fighters beat a 12-year-old Masalit child with wooden rods to death, they shouted: “Slaves, this is our land! Get out!”²²¹
- RSF captor to Masalit woman: “To us, you all are slaves.”²²²
- A survivor was called a “slave” during beatings.²²³
- “Get out, you slaves.”²²⁴
- Arab militia flogged and called a family of victims fleeing days of rape and sexual enslavement “donkeys and goats.”²²⁵
- RSF hunted Masalit in El Geneina, shouting: “where are you Masalit... sons of dogs!”²²⁶
- RSF to group of Masalit refugees: “All slaves must stand up and if you want to live, leave Sudan because Sudan is for Arabs.”²²⁷
- RSF soldiers called non-Arab individuals “dogs” and stated [areas of Darfur] are “no longer home of the Masalit, it’s the home of the Arabs.”²²⁸

Contamination

- An RSF captor to a Masalit victim between beatings: “You are dirt. You are a disgrace.”²²⁹

Incitement Chart

Genocidal Incitement and Intent Accusation in a Mirror

Historical *Indicia* of Genocidal Intent and Incitement

- ***Indicia* of Genocidal Intent and Incitement since April 2023**
- Arab and RSF and Arab militia forces, while beating a two-year-old to death: “If the boy grows up, he will fight us.”²³⁰
- Arab militiamen before executing a group of young Masalit: “You are Masalit. You are cursed. You killed us.”²³¹

Evidence of Genocidal Intent

The perpetrators' repeated and explicit expressions of an intent to kill all Masalit men and boys (as outlined in the above section) strongly suggest a genocidal paramilitary-wide policy.²³² However, under international law, the inquiry does not end at official policy or statements. The question of genocidal intent is also demonstrated by inference from a pattern of conduct.²³³ This section presents a global analysis of the pattern of RSF atrocities and genocidal acts consistently targeting the protected groups. The specific intent of genocide does not perfectly cohere within the traditional category of intent (*mens rea*), as distinct from acts (*actus reus*). The International Court of Justice (ICJ) determined that genocidal acts and intent are interlinked: "the characterization of the acts and their mutual relationship can contribute to an inference of intent."²³⁴ Thus, the genocidal acts themselves, and their manifest or systematic pattern directed against the protected group serve as *indicia* of genocidal intent.²³⁵

Part I: Systematic Genocidal Acts as Indicia of Intent

Art. II (a) Killing members of the group

The RSF and allied Arab militias have singled out non-Arab boys and men for close-range, often brutal, mass executions across West, Central, South, and North Darfur states in ways which are evidently gendered in nature, with impunity, and largely without resistance. The RSF and allied Arab militiamen have consistently interrogated community members to identify and surrender Masalit boys and men to be killed. As documented above, the RSF and its allied Arab militias did not exempt fleeing Masalit boys and men from execution, specifically inspecting the genitals of passing children, mirroring tactics used by Hutu militia during the Rwandan genocide to identify Tutsi boys,²³⁶ and murdering boys and infants on the spot using gruesome methods. These fighters consistently expressed an intent to prevent the boys from becoming fighters later.²³⁷

Art. II (b) Causing serious bodily or mental harm to members of the group

The RSF and its allied Arab militias systematically subject members of non-Arab groups, especially the Masalit, to severe physical and mental harm.

1. Physical harm

The RSF inflicted grievous physical injury on tens of thousands of non-Arab victims by indiscriminate and deliberate use of deadly force, including by gunshots, machetes and axes, arson (burning families alive in their homes), and shelling.

The RSF has also perpetrated severe torture against men and women held in captivity, including systematic rape and sexual violence, widespread gang rape, enslavement, brutal beatings with metal and wooden objects, electric shocks, flogging with whips used for animals, and stress positions.²³⁸

Rape and Sexual Violence

Rape and sexual violence can be probative of genocide, as evidence of both genocidal intent and acts under Arts. II (b), (c), and (d), as well as under Art. II (a) when followed by execution or death caused by torture.²³⁹ As the ICTR Trial Chamber held, “sexual violence was an integral part of the process of destruction... destruction of the spirit, of the will to live, and of life itself.”²⁴⁰ Rape and sexual violence inflict well-documented long-term destruction through extreme physical and psychological trauma, leading to suicides, sexually transmitted diseases, and directly impacting birth rates within the group.

During the past two decades, the Janjaweed (now the RSF) and other Arab militias systematically used rape and sexual and gender-based violence to humiliate, control, inflict fear, and displace non-Arab women and their communities. This practice has been repeatedly used as a tactic in the context of the current events in Darfur, particularly against the Masalit in West Darfur.

2. Mental Harm

In addition to the well-established evidence of physical harm, the RSF has deliberately subjected members of non-Arab groups to direct or indirect psychological damage. Survivors of the RSF’s torture described above are likely to suffer long-term effects, due to the lasting impact of said torture. Militiamen frequently coerce their victims by threatening to kill their family members.²⁴¹ The RSF also inflicts extreme mental harm on non-Arab families and their community as a whole by forcing them to watch the scale and brutality of murder and rape committed in front of them against their loved ones. The RSF’s constant onslaught of dehumanizing ethnic slurs as they murder, torture, and rape non-Arab people stigmatizes the victims and compounds the extreme psychological harm already inflicted.

Art. II (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

1. *Destruction of Homes, Shelters, and Communities*

As documented above, the RSF razed entire towns and villages to the ground in its attacks on West Darfur, including nearly all of Misterei and six other communities. According to the Masalit Sultanate report, the RSF and the allied Arab militias destroyed eighty-six IDP shelters and burned down Abu Zar IDP camp, Al Hajaj, and Gallani towns completely.²⁴² The RSF and Arab militias wiped out nearly 1,000 houses in *Foro Branga* locality alone (in southwest El Geneina).²⁴³

The collective attacks in West Darfur almost completely depopulated the traditional homeland of the Masalit (*Dar Masalit*), leaving community members without shelter in conditions of extreme scarcity and heat. This destruction of their shelters, homes, means of survival, and infrastructure directly imperils community survival, tears families apart, and displaces them from their land and way of life, preventing the reconstitution of the groups as they were.²⁴⁴

2. Destruction of Health System, Spread of Disease

The RSF and its allied Arab militias systematically targeted healthcare facilities and warehouses. As of March 2024, there have been at least 284 attacks on Sudan's health care system recorded in the conflict as a whole.²⁴⁵

In El Geneina, the RSF attacked all hospitals and medical facilities, resulting in the total collapse of the health care system.²⁴⁶ They deliberately used unburied bodies as roadblocks and left open mass graves, exposing the public to uncovered decaying bodies for prolonged periods and exacerbating the spread of disease.²⁴⁷

The targeting and breakdown of the medical system leads to the spread of untreated disease and widespread forced displacement of already grievously injured victims. Furthermore, the increasing numbers of non-Arab people sheltering in IDP and refugee camps results in overcrowding and the further spread of disease.

3. Destruction of Civilian Infrastructure; Deliberate deprivation of resources indispensable for survival²⁴⁸

As established above, the RSF and its allied Arab militias systematically destroyed essential civilian infrastructure in El Geneina, Misterei, and Ardamata, including power and water sources.²⁴⁹ The continuous RSF attacks, threat of snipers, and roadblocks confined the Masalit communities to parts of El Geneina where the basic means of survival had already been destroyed.²⁵⁰

The RSF prevented the confined populations from collecting water and even denied the severely injured safe passage when they lacked medical services, cutting off their only chance for survival.²⁵¹ In the process, the RSF also destroyed local mutual aid networks, built through community, that had helped many survive initial RSF assaults. As a result, the RSF inflicted conditions of life deliberately calculated to bring about the physical destruction of these communities in whole or in part.

Art. II (d) Imposing measures intended to prevent births within the group

Since the early 2000s, the Janjaweed, and later the RSF, have targeted men and boys for killings, and women and girls for rape in a clearly gendered nature. The use of rape is part of the campaign to execute the directive of the notorious Janjaweed leader,

Musa Hilal to “change the demography in Darfur.”²⁵² Attackers would express this intent on the ground in various ways before committing rape against non-Arab girls and women. For instance, attackers are recorded stating: “we will kill all men and rape the women. We want to change the color. Every woman will deliver red. Arabs are the husbands of those women” or “we want to make a light baby.”²⁵³ Currently, members of the RSF have expressed the same intent even more explicitly during attacks, vowing to rape the “Nuba,” so they will carry and deliver “our babies,” and to change “the non-Arab portion within the Sudanese blood.”²⁵⁴

The RSF’s systematic campaign of rape and sexual violence cuts across multiple genocidal acts, including Art. II (d). As the Commission of Inquiry on the Syrian Arab Republic (UN Syria Commission) concluded, ISIS imposed birth prevention measures on the Yazidi community through rape, citing a trauma psychology expert who treated hundreds of Yazidi women and girls who had been held by ISIS, who testified that the victims “did not want to marry, or to contemplate relationships with men now or in the future.”²⁵⁵

The RSF and its allied Arab militias systematically have used rape as a weapon of destruction against non-Arab women and girls through the most egregious forms of gang rape and sexual slavery, directly inflicting a reign of terror and preventing the groups’ long-term procreation.²⁵⁶ Moreover, the attackers explicitly express the intent to forcibly alter and prevent births within the groups while committing sexual violence.

The RSF has also imposed birth prevention measures by attacking hospitals that care for pregnant non-Arab women, causing additional deaths due to childbirth complications.²⁵⁷

Part II. Additional Indicia of Genocidal Intent

The ICC Pre-Trial Chamber I’s first and only decision on genocide charges issued against Al-Bashir is probative to the question of the RSF’s genocidal intent today, as the RSF is the direct successor of the Janjaweed and inheritor of its strategy and tactics. In the decision, the Chamber established the contextual element of genocide by finding Janjaweed-led ground attacks “against a part of the Fur, Masalit and Zaghawa groups that were *large in scale, systematic and followed a similar pattern*” [emphasis added].²⁵⁸ According to the jurisprudence of the international criminal tribunals, other key *indicia* of genocidal intent include a consistent *modus operandi*; “the invariability of the killing methods applied;” the screening and selection of victims based on their membership in the protected group; and the systematic targeting of “victims on account of their membership of a particular group, while excluding the members of other groups.”²⁵⁹

As documented above, the RSF has been carrying out a systematic campaign of genocidal acts directly targeting non-Arab groups with continued, if not greater, planning and coordination than in the early 2000s. The incitement section above clearly demonstrates that the RSF is drawing on the longstanding extreme

dehumanization of non-Arab communities to fuel its attacks. Its fighters often express outright genocidal intent while committing atrocities. The RSF follows the same systematic pattern and policy throughout its attacks, through door-to-door searches, checkpoints, and torture sites, interrogating and screening victims for their ethnicity, and singling out Masalit men and boys to be summarily executed at close range, while allowing others to pass. As in past genocides, the perpetrators target men and boys specifically for physical destruction because of their gendered roles perceived as threatening, as fighters and political or community leaders.²⁶⁰

The RSF has openly committed mass killing of Masalit boys and men and non-Arab convoys fleeing violence. These organized killings of members of non-Arab groups seeking to flee conflict indicate that the goal is not only to ethnically cleanse the areas, but to destroy the groups as such, in whole or in part. This RSF objective is abundantly clear to members of the Masalit, who seek to survive by hiding boys in *Abayas* or claiming to belong to other tribes.

The common denominator amongst the victims is the fact they belong to non-Arab ethnic groups.²⁶¹ Across each of the ground attacks described earlier, there is an unmistakable consistency across the RSF modus operandi and methods of killing, specifically targeting Masalit and other non-Arab communities in West Darfur. The militiamen surround and besiege non-Arab areas before carrying out coordinated ground attacks, setting fire to homes and IDP camps, destroying medical facilities and essential infrastructure, and confining the communities to conditions deliberately created to inflict destruction.

The RSF has designated public sites to be used as killing grounds and has used consistent killing methods against non-Arab victims, often of extreme brutality, including shooting at close range, slitting throats, hacking to death by machete or axes, and even mutilating bodies.²⁶² A prominent Masalit elder from El Geneina recorded his testimony in a documentation entry titled “Ways of killing African tribes,” listing mortars, snipers, swords, “beating to death with clubs” and “beheading with knife.”²⁶³

The sheer enormity of scale and the systematic nature of the sexual violence directed at non-Arab women and girls in RSF ethnically motivated attacks is further evidence of genocidal intent to destroy the groups’ reproductive capacity and intimate bonds.²⁶⁴ Taken as a whole, the pattern of rape committed by multiple RSF fighters in uniform simultaneously, at designated sites, often near RSF checkpoints or military positions on standby, for prolonged periods, in a coordinated nature, and following interrogation about the victims’ ethnicity, indicate an internal policy to use rape and sexual violence as a weapon of destruction against non-Arab women or girls.²⁶⁵

In July 2023, the Yale School of Public Health’s Humanitarian Research Lab determined that the “RSF and aligned forces’ patterns of attack are identical to the atrocities and crimes committed by the government of Sudan and Janjaweed militias in 2003 and 2004.”²⁶⁶ According to a key finding by Human Rights Watch, the RSF attack on Ardamata had all “the hallmarks of an organized campaign of atrocities against Masalit civilians.”²⁶⁷

Intent to Destroy in Part

The intent required to determine the commission of genocide can be based on an intent to destroy the group in part. International courts have interpreted this element as meaning the intent to destroy a “substantial part,” or a part that is “significant enough to have an impact on the group as a whole,”²⁶⁸ particularly the selective targeting of people with “special qualities of leadership within the group.”²⁶⁹ Throughout each attack, the RSF systematically targeted prominent Masalit leaders and figures, often along with multiple relatives and friends, including mayors, doctors, senior civil servants, imams, sheikhs, human rights monitors and activists, and lawyers who represented victims of previous attacks.²⁷⁰ These deliberate attacks target both the leaders and professionals on which the Masalit community as a whole depends for protection and survival. They are designed to eliminate prominent members emblematic of the group, cut off medical care for Masalit casualties, and destroy evidence of atrocities to allow the RSF to continue committing genocide with impunity. Moreover, the RSF campaign of genocidal acts targeting Masalit boys and men leaves few male survivors making it to safety, where women and children represent 90% of the refugees in Chad, the largest host country for the Masalit fleeing Darfur.²⁷¹

Targeting Prominent Masalit Leaders and Figures

According to one local traditional leader (*omda*), “Arab militias have lists containing names of activists, medical doctors, merchants, and community leaders. They are searching for their targets in neighborhoods to assassinate them.”²⁷² For instance, in Ardamata, the RSF pressured community members to surrender elders and administration leaders.²⁷³

The assassination of Abdallah Abkar, the Governor of West Darfur, is illustrative of the impact on the Masalit group as a whole, as it directly caused a mass forced displacement of Masalit from El Geneina to Adré and Ardamata.²⁷⁴ In a single attack, the RSF killed the brother and cousins of the Masalit Sultan (*Amir* Badawi Bahreldin, *Amir* Tarig Bahreldin, and *Amir* Abubakar Tajeldin), a member of the Masalit Council, and fourteen other members of the Masalit group.²⁷⁵ Another elder lost seventeen family members during the attacks on El Geneina.²⁷⁶ The RSF executed prominent leaders of the Masalit Sultanate (Dar Masalit or the land of Masalit), or *Farsha*, including one of the oldest leaders in the region, Mohammed Arbab, along with his son, eight grandchildren, and a brother whose house they burned down.²⁷⁷ A survivor recounted that during the attack on Ardamata, RSF fighters expressed clear intent to destroy Masalit community leaders before murdering his grandfather, who was a prominent elder, and two other male relatives: “We will not leave any educated Masalit alive, we will finish you.”²⁷⁸

Further, the RSF and its allied militias deliberately targeted Masalit community members who were documenting atrocities, including lawyers, prominent human rights defenders, and humanitarian volunteers.²⁷⁹ The DBA confirmed that one of its founding members and the head of the *Krinding* Crimes Indictment Commission was

killed, urging its members to flee immediately.²⁸⁰ In a statement, Strategic Initiative for Women in the Horn of Africa stated:

he RSF continues to burn down the city and kill civilians, many human rights defenders (HRDs) have been targeted, threatened, and attacked in their homes. Targeting the HRDs is a strategic effort by the RSF to force the HRDs out of the city as their lives are in danger if they do not leave. Ultimately, the HRDs leaving the city means less information will be shared on the human rights violations that are happening on the ground.²⁸¹

Absence of Effective Transitional Justice

Despite the overwhelming evidence of genocide dating back to the early 2000s, there has been no genuine transitional justice process in Darfur. The most recent attempt was the Juba Peace Agreement signed in October 2020, providing for the establishment of transitional justice mechanisms to redress the atrocities.²⁸² However, the transitional government failed to implement the terms, enabling the RSF and its allied Arab militias to commit atrocities with impunity.²⁸³ In West Darfur, as mentioned previously, between December 2019 and January 2021, the RSF and its allied Arab militias systematically targeted non-Arab populations, mainly from the Masalit community.²⁸⁴ In 2021, the transitional government set up a commission to investigate atrocities in West Darfur but failed to identify the perpetrators or to hold them to account.²⁸⁵

Finally, the same principal perpetrators of the genocide of the early 2000s remain in power and control of the RSF today, evincing the lack of accountability that allowed for their ongoing commission of genocide without repercussions.

State and Non-State Actor Responsibility

Under international law, it is clear that genocide does not require state involvement and can be committed by non-State actors.²⁸⁶ Moreover, the liability of non-State actors, as entities for genocide or breaches of the Genocide Convention is a matter of emerging customary international law, particularly when they exercise *de facto* control over territory and population.²⁸⁷ For example, the UN Syria Commission found ISIS responsible for committing genocide against the Yazidis of Sinjar.²⁸⁸ The 2015 report of the UN High Commissioner and 2016 report of the UN Assistance Mission for Iraq both referenced the intent of ISIS, as an entity, to destroy the Yazidis.²⁸⁹ The 2021 Investigative Team to Promote Accountability for Crimes Committed by Da'esh confirmed these findings by establishing clear and convincing evidence that ISIS committed genocide.²⁹⁰

The ILC's *Articles on Responsibility of States for Internationally Wrongful Acts* (the law of State responsibility) provides the rules of international law governing State breaches of the Genocide Convention, which are generally considered to reflect existing customary international law.²⁹¹ Pursuant to the law of State responsibility, acts of genocide will be attributed to the State when they are perpetrated by persons or entities (1) with the status of State organs;²⁹² (2) empowered by State law to exercise elements of governmental authority;²⁹³ or (3) acting on the instructions, or under direction or effective control of State organs.²⁹⁴ The acts of State organs or those empowered to exercise governmental authority are attributable to the State even when they exceed their authority or instructions.²⁹⁵

Implicated Actors (Non-Exhaustive List)

The following section will outline a non-exhaustive list of the most responsible actors implicated in breaches of the genocide.

1. *The RSF*

The RSF, as an entity, bears responsibility for the commission of genocide and direct and public incitement to genocide by its forces and their allied militias either in its capacity as a non-State actor or by acts attributable to the State of Sudan. As demonstrated, the RSF exercises *de facto* control over the territory and population in which it has committed systematic genocidal acts.

The RSF was established by the GoS through an act of parliament in 2017 ("The RSF Act").²⁹⁶ Prior to their fallout, the GoS deemed the RSF an essential component of the Sudanese military. The RSF commander, Hemedti, was second-in-command, as the Vice Chair of Sudan's Transitional Sovereign Council (TSC). Further, the RSF was empowered to exercise governmental authority, including protecting and regulating borders, government institutions, and immigration.

Since the formation of the transitional government in 2019, the RSF has entrenched and reinforced its military capabilities and political influence in Darfur. During the

transitional period, Hemedti headed a Higher Committee on Economic Emergency and signed parts of the Juba Peace Agreement protocols on behalf of the government.²⁹⁷ Following the fallout in April 2023, the RSF took control of four SAF infantry divisions in Darfur, effectively controlling West Darfur, South Darfur, Central Darfur, and East Darfur states.²⁹⁸ Even within North Darfur State, the RSF and its allied Arab militias are capable of operating relatively freely. The RSF now controls most of Darfur and is the only *de facto* authority in these areas, working within a hierarchical governance structure with appointed officials.

While the RSF and its allied Arab militias repeatedly deny the atrocities and ethnically motivated killings committed under their command, often claiming that their targets are SAF or Islamist fighters, most of the RSF's systematic genocidal acts were committed in areas under total RSF control, without the presence of the SAF or after their retreat, as documented in this report.

The genocidal acts and incitement to genocide committed by the RSF may be attributable to Sudan as per the existing "RSF Act" or if the RSF takes complete control over the country in the future.²⁹⁹

2. SAF

Prior to the current war, the SAF controlled five army infantry divisions in Darfur: the 6th (North), the 16th (South),³⁰⁰ the 21st (Central),³⁰¹ the 15th (West),³⁰² and the 20th (East) infantry divisions.³⁰³ At the time of writing, the SAF only maintains control of the 6th Division in El Fashir, North Darfur.

To counter the RSF's offensives and in a retaliation against RSF control of the 16th Division in Nyala, the SAF carried out a series of airstrikes targeting several RSF locations, but also residential areas. The SAF has not protected the targeted populations across Darfur.³⁰⁴ The fighting between the warring sides drove approximately 50,000 people to flee their homes in Nyala.³⁰⁵ While the SAF has a minimal presence in Darfur, it has also contributed to the obstruction of humanitarian aid to areas under RSF control.³⁰⁶

Under the Genocide Convention, the SAF has an obligation to prevent genocide in areas within its control and must employ all means reasonably available to protect the populations at risk.

3. UAE

The military ties between the UAE and the RSF go back to 2015, when the RSF sent its members to fight alongside Emirati forces in Yemen.³⁰⁷ The RSF went on to support the UAE-backed Gen. Khalifa Haftar in Libya.³⁰⁸ According to the UN Panel of Experts on Libya, the UAE has long supplied Haftar with advanced weapon systems in violation of the UN arms embargo levied in 2011.³⁰⁹

The relationship between the UAE and the RSF grew thereafter, as the UAE became the seat of RSF assets and front companies — all enabling the RSF to grow its capacity to

commit atrocities today. Investigations into the RSF's finances shed light into how it built its capacity and established funding networks and mechanisms in the UAE, including bank accounts and front companies such as the Taradive General Trading and Al Junaid companies.³¹⁰ The RSF's financial adviser manages its web of proxy companies and entities.³¹¹ The front companies ensure a steady financial flow to the RSF and are consolidated under the personal ownership of Hemedti's family.³¹² The RSF has further received tens of millions of dollars' (USD) worth of vehicles from the UAE to be used for military purposes.³¹³

Following al-Bashir's ouster, the UAE and Saudi Arabia immediately staked out their interests in Sudan by giving \$3 billion to the transitional military council and vying for control over the country's land, resources, and economic and political capital.³¹⁴ In December 2022, the UAE signed a \$6 billion deal with Sudan's transitional military council to construct a Red Sea port.³¹⁵

The RSF has also collaborated with Russia's Wagner Group to protect UAE's stake in Sudan's gold mines by guarding and transporting gold to Russia via the UAE—an important source of revenue following Russia's full-scale invasion of Ukraine in 2022.³¹⁶ The UN Panel of Experts on Sudan has further identified that the RSF has been smuggling gold to Dubai.³¹⁷

In September 2023, the New York Times reported that the UAE "is running an elaborate covert operation to back [the RSF]—supplying powerful weapons and drones, treating injured fighters and airlifting the most serious cases to one of its military hospitals."³¹⁸

According to their investigation, the RSF has established an airport that is used to receive UAE planes from Libya via Eastern Chad in the Umm al-Qura area near Nyala in South Darfur.³¹⁹ The RSF was recently seen unloading military equipment from an aircraft landing in South Darfur from the UAE.³²⁰

Previously leaked documents revealed that the RSF used a UAE company to receive money.³²¹ The RSF purchased and transferred a significant number of military supplies, including at least one thousand Toyota Land Cruisers and UAE-made armored vehicles (NIMR Ajban 440A 4x4s) to its troops in Sudan.³²² To undertake its transactions, the RSF used a network of companies based in the UAE and Sudan.³²³ International sources and local investigative journalists confirm that the UAE has been a key supplier of the RSF's military supplies.³²⁴

The UN Panel of Experts on Sudan and other sources have identified the near-daily heavy shipments by cargo planes from the UAE, delivering powerful weapons, drones, ammunition, and other military services through Eastern Chad to the RSF, directly enabling its attacks across Darfur.³²⁵

The UAE blatantly attempts to cover up its military operations under the guise of a "humanitarian" mission for "displaced Sudanese civilians" in an area that is nowhere near the hundreds of thousands of Darfuris who fled to Adré, Chad, hundreds of miles to the south.³²⁶ The UAE faces further allegations of supplying weapons to the RSF through other sites in Chad and the CAR.³²⁷

In late December 2023, the RSF commander Hemedti undertook foreign trips to Uganda, Ethiopia,³²⁸ Djibouti,³²⁹ Kenya,³³⁰ South Africa,³³¹ and Rwanda,³³² using UAE aircraft (ROJ010 – Boeing 737-7JZ).³³³ A top Sudanese General, Yasser Al Atta, also asserted that the UAE is supplying the RSF through Uganda, the CAR, and Chad, citing intelligence.³³⁴ In December 2023, a group of US congressional members sent a letter to the UAE's Minister of Foreign Affairs urging an end to its provision of military support to the RSF.³³⁵

In February 2024, a Sudanese investigative platform revealed that a leaked military intelligence document (see **Annex I: Leaked Military Intelligence Document**) confirms that an airplane carried more than 100 RSF officers and soldiers from Khartoum to UAE for military training, including on the operation of drones and tanks.³³⁶

The UAE became a State party to the Genocide Convention in 2005.³³⁷ While the UAE has a vague reservation to Article XI, regarding the submission of disputes to the ICJ,³³⁸ the UAE recently implicitly accepted ICJ jurisdiction in its first ever intervention before the Court.³³⁹ Moreover, the UAE's reservation to ICJ jurisdiction would render its accession to the Genocide Convention meaningless, where the ICJ is the only body with authority to adjudicate genocide cases between States.

As demonstrated in this report, the UAE bears State responsibility for complicity in genocide, in breach of Art. III (e) for its longstanding, direct, ongoing, and significant military, economic, and political support of the RSF, enabling it to commit genocide in Darfur. The UAE's complicity is further underscored by its efforts to cover for RSF atrocities by signaling a commitment to a peace process, while covertly fueling the violence. The UAE is also responsible for failing to prevent genocide, given its extensive influence over the RSF and the dynamics on the ground in Darfur.

A coalition of governments has already sanctioned specific UAE-based companies for their support of the RSF.³⁴⁰

4. *Central African Republic (CAR)*

Various reports confirm that the RSF received arms from the CAR on multiple occasions early in the conflict, including Man-Portable Air-Defence Systems (MANPADS) and associated ammunition. The first occurred on April 28, 2023, when RSF vehicles traveled from the Am Dafok area, in South Darfur to receive a cache of arms in Birao, CAR.³⁴¹ A second transfer occurred on May 3, 2023, in Terfele in the CAR.³⁴² These supplies were then transported to South Darfur through Am Dafok.³⁴³

These operations were facilitated by the RSF's field commander, who controls the area in South Darfur, Al-Jazouli Abdalla. Abdalla is a member of the Taisha community who has an extensive history of arms smuggling to and from the CAR, maintaining relationships with leaders in Terfele, CAR.³⁴⁴

In May 2023, the RSF captured *Am Dafok*, the main border entry point with the CAR, allowing the RSF to recruit among Arab communities in Northeast CAR and charge heavy security taxes on the passage of goods.³⁴⁵

5. Chad

In 2023, Chad's Interim President, Mahamat Idriss Déby, met with UAE Sheikh Mohamed bin Zayed Al Nahyan, and signed a number of memoranda of understanding (MoUs), including one regarding bilateral military cooperation.³⁴⁶ The UAE leader pledged a \$1.5 billion USD loan and military vehicles to his Chadian counterpart. These were delivered in August 2023.³⁴⁷ The Chadian authorities allowed the UAE to erect an airfield in Amdjarass to directly support the transfer of heavy military shipments to the RSF mentioned above.³⁴⁸ In May and June 2023, a large and uncommon amount of such cargo flights (Ilyushin-76 TD) from the UAE to Uganda and then Chad were tracked.³⁴⁹

It should be noted that RSF fighters are largely from the Rizeigat Arab tribe, whose population extends to Chad.³⁵⁰ Hemedti is well-connected with political and military leaders in Chad.³⁵¹ His cousin, General Bichara Issa Djadalla, is the Chief of Staff to the President Déby.³⁵² As is well-documented, the RSF leverages its ethnic and political connections to Chad to recruit fighters.³⁵³ This finding was also confirmed by the UN Panel of Experts.³⁵⁴ The Chadian military has itself confirmed these RSF recruitment networks.³⁵⁵

6. Russia / the Wagner Group

The Wagner Group is a Russian mercenary group founded by its late leaders, Yevgeny Prigozhin and Dmitry Utkin, and actively supported by the Russian government.³⁵⁶ It began its operation in Sudan in 2017 following al-Bashir's visit to Moscow.³⁵⁷ The Wagner Group consolidated its presence in Sudan since the military takeover on October 25, 2021.³⁵⁸ In particular, Wagner has developed an entrenched relationship with Hemedti, who visited Moscow in the early days of Russia's full-scale invasion of Ukraine in 2022 to strengthen ties.³⁵⁹

According to reports, the Wagner Group in CAR sent weapons and reinforcements to the RSF and trains RSF forces on the border with CAR in the Am Dafok area.³⁶⁰ The Wagner Group further supplies the RSF with surface-to-air missiles,³⁶¹ and provides the RSF with extensive operational support from military bases in Libya.³⁶² According to experts, the Wagner Group also exploits its relationship with the RSF to smuggle gold from Sudan to Dubai and Russia (for more details, see **Annex II: RSF Illicit Gold Trade**).³⁶³ According to US intelligence, the RSF has signed contracts with Wagner Group front companies over gold.³⁶⁴

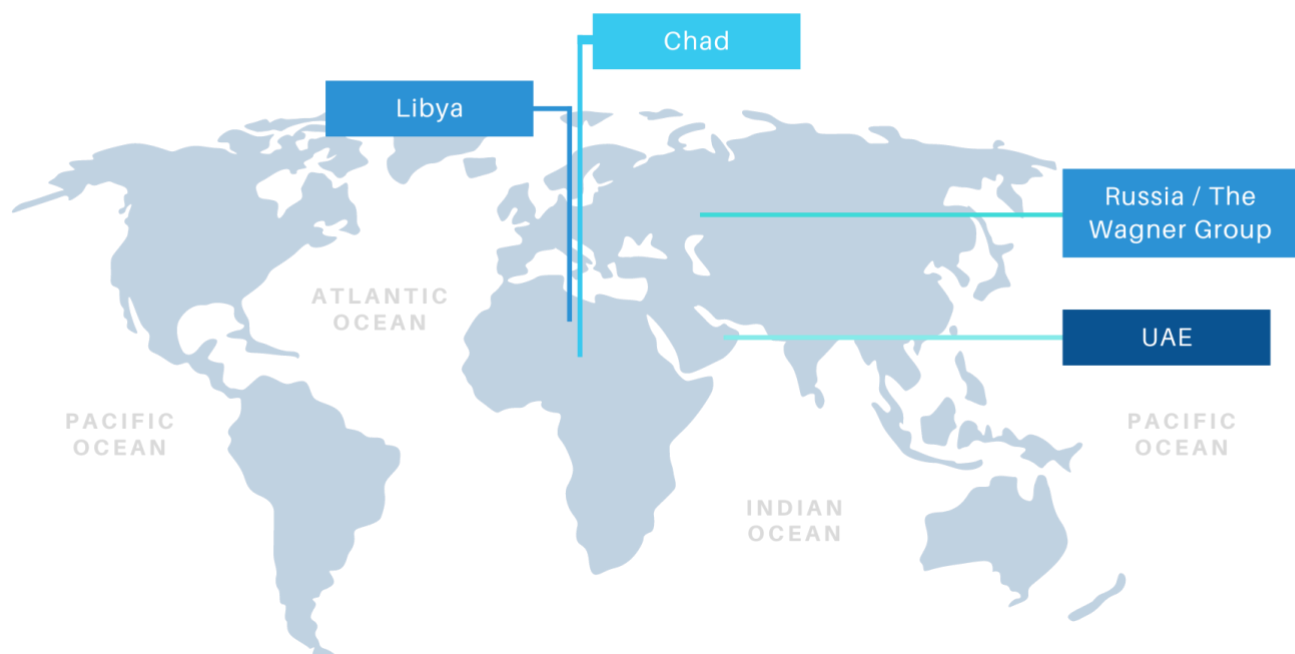
The conduct of the Wagner Group in its military and financial support to the RSF is attributable to Russia, which, therefore, as a State party, also bears responsibility for complicity and failure to prevent the genocide in Darfur.

7. Libya

Various reliable sources confirm that the RSF has been using Southern Libya as a supply route and is receiving fuel, Land Cruisers, and arms from Gen. Haftar.³⁶⁵ The UN Panel of Experts on Sudan concluded that the RSF maintains this support channel from Libya through its relations with the Libyan National Army (LNA).³⁶⁶ The report further establishes that during the first week of the conflict, the RSF offered a cooperation deal with Darfuri armed movements in Libya to transport artillery items and ammunitions from Libya to Darfur.³⁶⁷ Recently, the Tripoli-based administration announced an investigation into oil smuggling to Sudan which, according to a Libyan official, “was helping to provide fuel to the paramilitary Rapid Support Forces fighting in Sudan.”³⁶⁸

Libya became party to the Genocide Convention on May 16, 1989, with no reservations.³⁶⁹ The State of Libya, and particularly via the LNA under the command of General Haftar, extensively supports the RSF with military training, arms, transportation, and fuel.³⁷⁰ Libya, therefore, is responsible for complicity and failing to prevent the genocide.

Implicated Actors



International Legal Conclusions and Obligations

The evidence and analysis in this report lead to the following inescapable legal conclusions.

First, based on clear and convincing evidence, the RSF and allied militias have committed and are committing genocide against the Masalit as a group, in whole or in part.

Second, based on clear and convincing evidence, the RSF is responsible for direct and public incitement to genocide.

Third, all 153 States parties to the Genocide Convention are obligated to take immediate action to end any complicity in the form of support for the RSF and to use all means reasonably available to prevent and halt the genocide.³⁷¹

Fourth, based on clear and convincing evidence, the following actors are complicit in the genocide, in standing breach of Art. III(e): Sudan, the UAE, Libya, Chad, the CAR, and Russia via the actions of the Wagner Group, under its effective control.

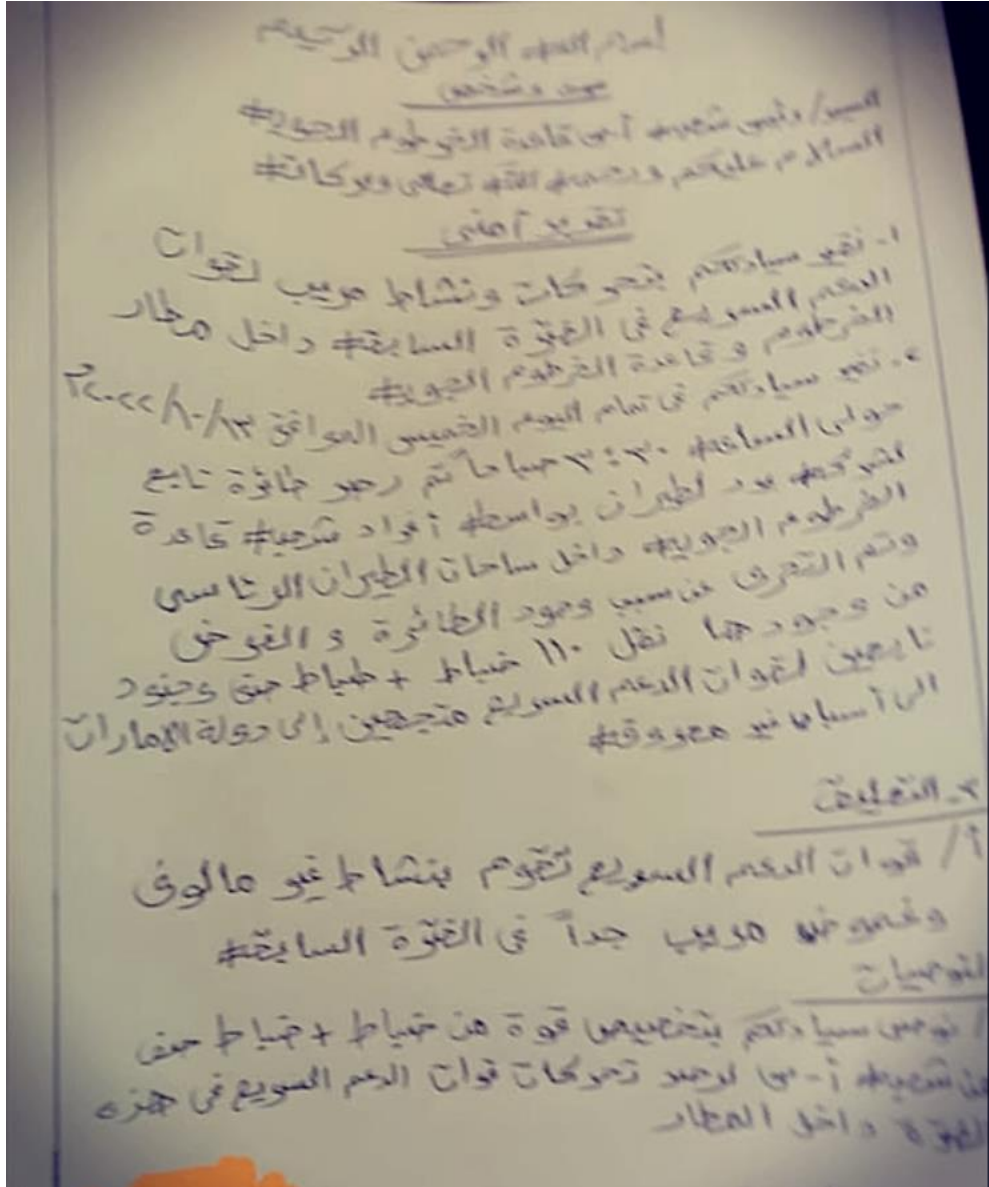
Finally, there are reasonable grounds to believe the RSF and allied militias are responsible for genocide against non-Arab groups other than the Masalit, including the Fur and Zaghawa.

Abbreviations

AIM	Accusation in a Mirror
CAR	Central Africa Republic
DBA	Darfur Bar Association
GoS	Government of Sudan
ICC	International Criminal Court
ICJ	International Court of Justice
ICP	Integrated Food Security Phase Classification
IDPs	Internally Displaced Persons
ILC	International Law Commission
NISS	National Intelligence and Security Services
JPA	Juba Peace Agreement
LNA	Libyan National Army
MANPADS	Man-Portable Air-Defence Systems
MSF	Médecins Sans Frontières
RWCHR	Raoul Wallenberg Centre for Human Rights
RSF	Rapid Support Forces
SAF	Sudanese Armed Forces
TSC	Transitional Sovereign Council
UAE	United Arab Emirates
UCAVs	Unmanned Combat Air Vehicles
UN	United Nations
UNAMID	United Nations-African Mission in Darfur
UNHCR	United Nations High Commission for Refugees
UNITAMS	United Nations Integrated Transition Assistance Mission
VCLT	Vienna Convention on the Law of Treaties
WFP	World Food Programme

Annexes

Annex I: Leaked Military Intelligence Document



(a screenshot from YouTube)

Annex II: RSF's Illicit Gold Trade

Sudan is Africa's third gold-exporting country, following Ghana and South Africa,³⁷² with gold being its most valuable resource and top export.³⁷³ Prior to the current conflict, the RSF has pursued the control of gold mining areas across Sudan.³⁷⁴ This has allowed the RSF to finance its operations, including paying high salaries to its soldiers.³⁷⁵

In 2017, the RSF took control of the Jabel Amer mines, which were previously controlled by Musa Hilal, another Janjaweed militia commander who was sanctioned by the UN Security Council for crimes committed in Darfur between 2003-2005.³⁷⁶ The RSF also controls gold mines in other regions, such as South Kordofan.³⁷⁷

In 2020, the ownership of the mines in Jabel Amer was transferred to the transitional government of Sudan in exchange for \$200 million USD, to be paid to Al-Junaid Company, owned by Abdel Rahim Dagalo, Hemedti's brother and the RSF's deputy commander.³⁷⁸ The agreement stipulated that Hemedti's brother would own 33% of the shares of Sudamin, a government entity affiliated with the Sudan Ministry of Minerals.³⁷⁹

In 2016, the UN Panel of Experts on Sudan concluded with certainty that the gold from the Jabel Amer area was being exported to the UAE.³⁸⁰ The Panel further concluded that between 2010 and 2014, the Janjaweed and other armed groups profited (by approximately \$123 million USD) from gold-generated income.³⁸¹ According to World Integrated Trade Solution, in 2017, Sudan exported 36,587 kg of gold to the UAE (roughly \$1.5 billion).³⁸²

In the context of the current conflict, evidence confirms that the UAE continues to be a hub for gold coming from RSF-controlled areas, while Egypt has become a destination for gold coming from SAF-controlled areas.³⁸³

The illicit gold trade in Sudan plays a significant role in the current conflict. It allowed the warring parties, especially the RSF, to finance their military operations. As demonstrated by the UN Panel of Experts, the UAE's support has been instrumental in enabling the RSF to sustain the war and maintain its military supremacy, including defeating SAF in El Gazirah, South Darfur, West Darfur, Central Darfur, and Central Darfur states.³⁸⁴

¹ Clingendael, “From Catastrophe to Famine: Immediate action needed in Sudan to contain mass starvation” February 2024, https://www.clingendael.org/sites/default/files/2024-02/PB_Sudan_famine.pdf.

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³ OCHA, Sudan Situation Report (Feb. 23, 2024), <https://reports.unocha.org/en/country/sudan/> [last accessed on Apr. 1, 2024].

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⁵ OCHA, Today's Top News: Occupied Palestinian Territory, Haiti, Sudan, Ukraine (Mar. 13, 2024) <https://www.unocha.org/news/todays-top-news-occupied-palestinian-territory-haiti-sudan-ukraine>; Save the Children, Sudan: Nearly 230,000 Children and New Mothers Likely to Die From Hunger Without Critical Action (Mar. 13, 2024), <https://www.savethechildren.net/news/sudan-nearly-230000-children-and-new-mothers-likely-die-hunger-without-critical-action-save> [last accessed on Apr. 1, 2024].

⁶ Sudan Situation Report, *supra* note 3.

⁷ Euro-Med Monitor, “As conflict enters its 10th month, Sudan is expected to see greatest displacement wave, number of casualties yet” (Feb. 21, 2024), <https://reliefweb.int/report/sudan/conflict-enters-its-10th-month-sudan-expected-see-greatest-displacement-wave-number-casualties-yet-enar>; Ayin, “Sudan’s health care system nears collapse: ‘It is deteriorating by the hour’” (Dec. 31, 2023), <https://3ayin.com/en/health-5/> [last accessed on Apr. 1, 2024].

⁸ OCHA, “Overview of the humanitarian response in Sudan,” <https://www.unocha.org/sudan>.

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¹⁰ ACAPS West Darfur Pre-crisis Profile (Jul. 17, 2023), at 4-5 https://www.acaps.org/fileadmin/Data_Product/Main_media/20230718_ACAPS_Thematic_report_Sudan_West_Darfur_conflict.pdf [last accessed on Mar. 14, 2024].

¹¹ Campbell MacDiarmid, Russian Wagner mercenaries offer missiles to Sudan paramilitaries, *The Telegraph* (Apr. 21, 2023), <https://www.telegraph.co.uk/world-news/2023/04/21/wagner-group-offer-missiles-sudan-paramilitary/> [last accessed Feb. 19, 2024].

¹² On the standard of proof in respect of the Genocide Convention, see amongst others, Stephen Wilkinson, “Standards of Proof in International Humanitarian and Human Rights and Fact-Finding and Inquiry Missions”, the Geneva Academy of International Humanitarian Law and Human Rights Law, at 20, [https://www.geneva-academy.ch/joomlatools-files/docman-files/Standards of Proof in Fact-Finding.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/Standards%20of%20Proof%20in%20Fact-Finding.pdf) [last accessed on Apr. 15, 2024].

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¹⁷ Samuel Totten, *Centuries of Genocide*, “The Darfur Genocide,” at 488 (2022).

¹⁸ *Id.* at 497-98.

¹⁹ *Id.* at 499.

²⁰ *Id.* at 495-497.

²¹ *Id.* at 499-500.

²² *Id.* at 501; 2005 Commission, paras. 235, 305.

²³ ICC, Prosecutor’s Application for Warrant of Arrest under Article 58 Against Omar Hassan Ahmad AL BASHIR, at 6, <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/64FA6B33-05C3-4E9C-A672-3FA2B58CB2C9/277758/ICCOTPSummary20081704ENG.pdf> [last accessed on Apr. 1, 2024].

²⁴ 2005 Commission, paras. 193, 267, 271, 304, 310.

²⁵ ICC *Prosecutor v. Al Bashir*, “Decision on Second Application for a Warrant of Arrest,” Jul. 12, 2010 (ICC-02/05-01/09-95), fn. 29; Totten, *supra* note 17, at 489.

²⁶ 2005 Commission, *supra* note 14, paras 307, 315.

²⁷ UN News, “At Five-Year Mark, Darfur Crisis Is Only Worsening – UN Aid Chief” (Apr. 22, 2008), <https://news.un.org/en/story/2008/04/256942>; see also Degomme, Olivier, MD and Debarati Guha-Sapir, MD “Patterns of Mortality Rates in Darfur Conflict,” *The Lancet* (Jan. 23, 2010), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(09\)61967-X/abstract](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(09)61967-X/abstract). This number continues to be cited without having been updated since 2008, despite the continued attacks since. A high end mortality estimate puts the figure at upwards of 450,000 as of April 2006. See Eric Reeves, “How many dead in Darfur?” *The Guardian*, (Aug. 20, 2007) <https://www.theguardian.com/commentisfree/2007/aug/20/howmanydeadindarfur> [last accessed on Apr. 1, 2024].

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³⁰ Nick Grono, “Darfur: The International Community’s Failure to Protect,” International Crisis Group (Sep. 30, 2006), <https://www.crisisgroup.org/africa/horn-africa/sudan/darfur-international-communitys-failure-protect> [last accessed on Apr. 1, 2024].

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³³ Akshaya Kumar & Omer Ismail, “Janjaweed Reincarnate,” Enough Project, at 1-4 (Jun. 2014), https://enoughproject.org/files/JanjaweedReincarnate_June2014.pdf [last accessed on Apr. 13, 2024].

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³⁵ Who Are the Rapid Support Forces, the Paramilitaries Fighting Sudan’s Army? *New York Times* (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/world/africa/paramilitary-rsf-explainer.html> [last accessed on Apr. 1, 2024].

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- ⁵⁵ ICJ 1951 *Advisory Opinion*, at 12.
- ⁵⁶ *Ibid.*
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¹⁶¹ *Akayesu*, paras. 556-560. See also Gregory Gordon, *Atrocity, Speech Law: Foundation, Fragmentation, Fruition*, Oxford University Press, Oxford, 2017, at 185, describing the content of the elements: (“(1) ‘direct’ (whether the persons for whom the message was intended immediately grasped the implication thereof— from this one can deduce that the message can be implicit); (2) ‘public’ (a call for criminal action to a number of individuals in a public place or to members of the general public via mass media); (3) incitement (illegal urging to commit genocide parsed by reference to purpose and context); and (4) *mens rea* (the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such).”

¹⁶² *Media Case*, para. 1004; *Prosecutor v. Bikindi*, ICTR-01-72-A, Judgment (Dec. 2, 2008), para 387.

¹⁶³ See “Dangerous Speech: A Practical Guide,” the Dangerous Speech Project, 2021, at 10-24; see also UN Rabat Plan of Action, addendum to the Annual report of the United Nations High Commissioner for Human Rights, A/HRC/22/17/Add.4, (Jan. 11 2013), para. 29.

¹⁶⁴ See Susan Benesch, “Vile Crime or Inalienable Right: Defining Incitement to Genocide,” (2008) 48:3 *Virginia Journal of International Law*, at 503-506. See also Gregory Gordon, *Atrocity, Speech Law: Foundation, Fragmentation, Fruition*, Oxford University Press, Oxford, 2017, at 284 (adding “euphemisms and metaphors; justification during contemporaneous violence... and victim-sympathizer conflation.”).

¹⁶⁵ John and Rymond-Richmond, *supra* note 129, at 875-876.

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- ¹⁶⁶ UN Commission of Inquiry, para. 245 (other witnesses recounted the following: “the Fur are slaves, we will kill them,” or “you are not from here”).
- ¹⁶⁷ UN Commission of Inquiry, paras. 333, 345, 367, 511. The word *zurga* is used to describe dark-skinned people in Darfur. It is often used as a derogatory word equivalent to the N-word.
- ¹⁶⁸ HRW, *Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan* (May 6, 2004), <https://www.hrw.org/report/2004/05/06/darfur-destroyed/ethnic-cleansing-government-and-militia-forces-western-sudan> [last accessed on Apr. 2, 2024]; Hagan, John, and Wenona Rymond-Richmond. *Darfur and the Crimes of Genocide*. New York: Cambridge University Press (2008), at 157.
- ¹⁶⁹ UN Panel of Experts on Sudan, paras. 77-80.
- ¹⁷⁰ Harter, *supra* note 76.
- ¹⁷¹ Maggie Michael, *supra* note 69; HRW, *supra* note 100.
- ¹⁷² Maggie Michael, *supra* note 69.
- ¹⁷³ Maggie Michael, *supra* note 69.
- ¹⁷⁴ Maggie Michael, *supra* note 69.
- ¹⁷⁵ Hagan and Rymond-Richmond, at 9.
- ¹⁷⁶ 2005 Commission, para. 245.
- ¹⁷⁷ UN News, *Sudan: Prosecutor in UN-backed war crimes court sees multiple Darfur prosecutions*, (June 14, 2006), <https://reliefweb.int/report/sudan/sudan-prosecutor-un-backed-war-crimes-court-sees-multiple-darfur-prosecutions>.
- ¹⁷⁸ Hagan and Rymond-Richmond, at 9.
- ¹⁷⁹ Hagan and Rymond-Richmond, at 9.
- ¹⁸⁰ Hagan and Rymond-Richmond, at 172.
- ¹⁸¹ ICC, *Prosecutor v. Al-Bashir*, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir ICC-02/05-01/09, Mar. 4, 2009, para. 41.
- ¹⁸² Hagan and Rymond-Richmond, 132
- ¹⁸³ Hagan and Rymond-Richmond, 133
- ¹⁸⁴ HRW, *supra* note 37.
- ¹⁸⁵ Hagan and Rymond-Richmond, 152.
- ¹⁸⁶ Hagan and Rymond-Richmond, 126
- ¹⁸⁷ Maggie Michael, *supra* note 69.
- ¹⁸⁸ HRW, *supra* note 100.
- ¹⁸⁹ HRW, *supra* note 100.
- ¹⁹⁰ Harter, *supra* note 76.
- ¹⁹¹ HRW, *supra* note 89.
- ¹⁹² Harter, *supra* note 76.
- ¹⁹³ HRW, *supra* note 100.
- ¹⁹⁴ Amin & Hilton, *supra* note 66.
- ¹⁹⁵ Amin & Hilton, *supra* note 66.
- ¹⁹⁶ Hagan and Rymond-Richmond, at 148.
- ¹⁹⁷ Eric Reeves, *Musa Hilal and the changing of Darfur's "demography"* (Nov. 5, 2015), <https://sudanreeves.org/2015/11/05/musa-hilal-and-the-changing-of-darfurs-demography/> [last accessed on Apr. 2, 2024].
- ¹⁹⁸ HRW, *supra* note 100.
- ¹⁹⁹ Nima Elbagir et al., *supra* note 140.
- ²⁰⁰ HRW, *Failing Darfur* <https://www.hrw.org/legacy/features/darfur/fiveyearson/report7.html> [last accessed on Apr. 2, 2024].
- ²⁰¹ *Id.*
- ²⁰² Maggie Michael et al., *supra* note 61.
- ²⁰³ Maggie Michael et al., *supra* note 67.

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- ²⁰⁴ Sudan: RSF accused of killing Hundreds of People from the Masalit Community in the Darfur Region, Channel 4 News (Nov. 23, 2023), <https://www.youtube.com/watch?v=9ue25pVgbFs> [last accessed on Apr. 2, 2024].
- ²⁰⁵ Amin & Hilton, *supra* note 66.
- ²⁰⁶ Askin, Kelly Dawn. 2006. "Prosecuting Gender Crimes Committed in Darfur: Holding Leaders Accountable for Sexual Violence." *Genocide in Darfur: Investigating Atrocities in the Sudan*, edited by Samuel Totten and Eric Markusen, at 147. New York: Routledge (2006).
- ²⁰⁷ *Ibid.*
- ²⁰⁸ Maggie Michael, *supra* note 67.
- ²⁰⁹ Shayna Lewis, Sexual violence still a major threat as Sudan's conflict grinds on, AlJazeera (Dec. 6, 2023), <https://www.aljazeera.com/features/2023/12/6/sexual-violence-still-a-major-threat-as-sudans-conflict-grinds-on> [last accessed on Apr. 2, 2024].
- ²¹⁰ HRW, *supra* note 140.
- ²¹¹ Maggie Michael, *supra* note 67; HRW, *supra* note 140.
- ²¹² HRW, *supra* note 140.
- ²¹³ Harter, *supra* note 150.
- ²¹⁴ Hagan and Rymond-Richmond, at 109.
- ²¹⁵ Hagan and Rymond-Richmond, at 109.
- ²¹⁶ ICC, Prosecutor's Application for Warrant of Arrest under Article 58 Against Omar Hassan Ahmad AL BASHIR, at 9.
- ²¹⁷ Hagan and Rymond-Richmond, at 9.
- ²¹⁸ Maggie Michael, *supra* note 69.
- ²¹⁹ Mohammed Salih, *supra* note 152.
- ²²⁰ Harter, *supra* note 150.
- ²²¹ Maggie Michael, *supra* note 69.
- ²²² Nima Elbagir, et al., *supra* note 140.
- ²²³ Nima Elbagir, et al., *supra* note 140.
- ²²⁴ Katharine Houreld & Hafiz Haroun, *supra* note 153.
- ²²⁵ Nima Elbagir, et al., *supra* note 140.
- ²²⁶ Amin & Hilton, *supra* note 66.
- ²²⁷ MSF, *supra* note 60.
- ²²⁸ France 24 English, *supra* note 144.
- ²²⁹ Nima Elbagir, et al., *supra* note 140.
- ²³⁰ Maggie Michael, *supra* note 69.
- ²³¹ Maggie Michael et al., *supra* note 61.
- ²³² For example, see; Maggie Michael, *supra* note 69; Nima Elbagir, et al., *supra* note 140.
- ²³³ ICJ, *Bosnia and Herzegovina v. Serbia and Montenegro*, p 197, para 373 (2007).
- ²³⁴ ICJ, *Croatia v. Serbia*, para. 130.
- ²³⁵ See ICC Elements of Crimes, Art. 6 Genocide ("conduct took place in the context of a manifest pattern of similar conduct directed against that group").
- ²³⁶ Sareta Ashraph, Acts of Annihilation: The Role of Gender in the Commission of the Crime of Genocide, 19.
- ²³⁷ Maggie Michael et al., *supra* note 69.
- ²³⁸ UN report A/HRC/55/29, para. 59.
- ²³⁹ ICJ, *Croatia v. Serbia*, para.166. The Commission of Inquiry found that ISIS committed the prohibited act under Art. II (c) by sexually enslaving Yazidi women and girls, subjected to multiple rapes, while deprived of food, water, and medical care. They came to destroy, para 140.
- ²⁴⁰ *Akayesu*, paras. 731-732.
- ²⁴¹ Reuters, Sudanese women allege rape by armed fighters during ethnic attacks (Nov. 30, 2023), https://news.yahoo.com/sudanese-women-allege-rape-armed-170401798.html?fr=sycsrp_catchall [last accessed on Apr. 2, 2024].

²⁴² altaghyeer.info) تقرير عن مجازر مدينة الجنينة في الفترة من 24 أبريل حتى 12 يونيو – صحيفة التغيير السودانية . اخبار السودان [last accessed on Apr. 2, 2024].

²⁴³ *Id.*

²⁴⁴ ICC, Prosecutor v. Blagojevic & Jokic, Case No. IT-02-60-T, Judgment, p 245, at para 666 (Jan. 17, 2005).

²⁴⁵ Reliefweb, Attacks on Health Care in Sudan, 21 February - 05 March 2024 (Mar. 12, 2024), <https://reliefweb.int/report/sudan/attacks-health-care-sudan-21-february-05-march-2024> [last accessed on Apr. 16, 2024].

²⁴⁶ UN Panel of Experts on Sudan, para 91.

²⁴⁷ UN Panel of Experts on Sudan, p 24 at para 87; Abdi Latif Dahir, Mass Grave With Dozens of Bodies Uncovered, UN Says, NY Times (Jul. 13, 2023), <https://www.nytimes.com/2023/07/13/world/africa/mass-grave-darfur-sudan.html> [last accessed on Apr. 2, 2024].

²⁴⁸ ICC Elements of Crimes, Article 6(c)(4).

²⁴⁹ Mohamat Ramadane & Nafisa Eltahir, Sudan war spells more disaster for Darfur city on Chad border, Reuters (May 26, 2023), <https://www.reuters.com/world/africa/sudan-war-spells-more-disaster-darfur-city-chad-border-2023-05-26/> [last accessed on Apr. 16, 2024].

²⁵⁰ UN Panel of Experts on Sudan, para. 87.

²⁵¹ UN Panel of Experts on Sudan, paras. 91 and 96.

²⁵² Radio Dabanga, Musa Hilal ‘Establishes Administration’ in North Darfur (Mar. 19, 2014), <https://www.dabangasudan.org/en/all-news/article/musa-hilal-establishes-administration-in-north-darfur>; Eric Reeves, “‘Changing the Demography’: Violent Expropriation and Destruction of Farmlands in Darfur, November 2014 – November 2015” (Dec. 1, 2015), <https://sudanreeves.org/2017/10/15/changing-the-demography-violent-expropriation-and-destruction-of-farmlands-in-darfur-november-2014-november-2015/> [last accessed on Mar. 14, 2024].

²⁵³ John Hogan et al., Racial Targeting of Sexual Violence in Darfur, 99 Am J Public Health 1389 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2707480/pdf/1386.pdf>; Emily Wax, Arab militiamen in Sudan use rape as weapon, NBC News (Jan. 29, 2004), <https://www.nbcnews.com/id/wbna5327445> [last seen Mar. 14, 2024].

²⁵⁴ See incitement chart above.

²⁵⁵ Commission of Inquiry on the Syrian Arab Republic, “They Came to Destroy”: ISIS Crimes Against Yazidis, para. 145 (Jun. 15, 2016); See also Human Rights Watch’s finding regarding the Kosovo war: “One purpose that rape in the war may have served was discouraging women from reproducing in the future,” https://www.hrw.org/legacy/reports/2000/fry/Kosov003-02.htm#P186_35892 [last accessed on Apr. 2, 2024]. See also ICJ Croatia at para. 166 (similarly finding rape to constitute a genocidal act under Art. II (d) as “the capacity of members of the group to procreate is affected.”)

²⁵⁶ A victim testifies that during her captivity her sisters and mother were raped four times a day by RSF fighters (one to six), see HRW, *supra* note 140.

²⁵⁷ Strategic Initiative for Women in the Horn of Africa (SIHA Network), Press Statement: The Footprints of Genocide Can Be Traced in Al Geneina (Jun. 16, 2023), <https://sihanet.org/press-statement-the-footprints-of-genocide-can-be-traced-in-al-geneina/> [last accessed on Mar. 14, 2024].

²⁵⁸ Prosecutor v. Al Bashir, ICC-02/05-01/09, Second Decision on the Prosecution’s Application for a Warrant of Arrest, para. 16.

²⁵⁹ *Krstić*, Judgment Aug. 2001, para. 572 (“the number and nature of the forces involved, the standardised coded language used by the units in communicating information about the killings, the scale of the executions, the invariability of the killing methods applied”); Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, UN Doc. A/HRC/39/CRP.2 (Sept. 17, 2018), para. 1429; *Jelisić* Appeals Judgment, IT-95-10-A, Jul. 2001, para 47 (“As to proof of specific intent, it may, in the absence of direct explicit evidence, be inferred from a number of facts and circumstances, such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive and discriminatory acts”); *Prosecutor v Kayishema and*

Ruzindana, ICTR-95-1-A, Judgment, 1 June 2001, para. 139 (“screening” carried out at roadblocks to identify and kill Tutsis as indicator of genocidal plan inferred from pattern of conduct); *Akayesu*, para. 523 (“intent can be inferred from a certain number of presumptions of fact... the general context of the perpetration of other culpable acts systematically directed against that same group... the scale of atrocities committed, their general nature, in a region or a country, or furthermore, the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups.”)

²⁶⁰ Ashraph, *supra* note 236 at 19.

²⁶¹ ICC-02/05-01/09, *Prosecutor v. Al Bashir*, Second Decision on the Prosecution's Application for a Warrant of Arrest, para 16.

²⁶² Michael & McNeill, *supra* note 83.

²⁶³ Maggie Michael et al., *supra* note 61.

²⁶⁴ A/HRC/42/CRP.5, para 224, (Sep. 16, 2019).

²⁶⁵ A victim testifies that during her captivity her sisters and mother have been raped four times a day by RSF fighters (one to six), see HRW, *supra* note 140.

²⁶⁶ Conflict Observatory, Evidence of Alleged Widespread, Systematic, and Targeted Mass Atrocities in Darfur, 15 April – 10 July 2023 (Jul. 14, 2023), <https://hub.conflictobservatory.org/portal/apps/sites/#/sudan/pages/darfur-1> [last accessed on Apr. 2, 2024].

²⁶⁷ HRW, *supra* note 100.

²⁶⁸ ICJ, *Bosnia and Herzegovina v. Serbia and Montenegro*, para 198.

²⁶⁹ Sikirica et al., Judgment on Defence Motions to Acquit, IT-95-8-T, 3 September 2001 [76].

²⁷⁰ UN Panel of Experts on Sudan, para 90; HRW, Sudan: Tackle Spiralling Violence in West Darfur (Jun. 21, 2023), <https://www.hrw.org/news/2023/06/21/sudan-tackle-spiralling-violence-west-darfur>; HRW, *supra* note 100; France 24 English, *supra* note 145; Amin & Hilton, *supra* note 66; Juma & Ball, *supra* note 81; Maggie Michael et al., *supra* note 67; Radio Dabanga, More than 5,000 Reportedly Killed in El Geneina ‘Genocide’ (Jun. 20, 2023), <https://www.dabangasudan.org/en/all-news/article/more-than-5000-reportedly-killed-in-el-geneina-genocide> [last accessed on Apr. 2, 2024].

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²⁷² Radio Dabanga, *supra* note 79.

²⁷³ HRW, *supra* note 100.

²⁷⁴ UN Panel of Experts on Sudan, para 71.

²⁷⁵ Radio Dabanga, Relatives of Masalit Sultan Killed in Renewed Attacks on West Darfur Capital (Jun. 14, 2023), <https://www.dabangasudan.org/en/all-news/article/relatives-of-masalit-sultan-killed-in-renewed-attacks-on-west-darfur-capital> [last accessed on Apr. 2, 2024].

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²⁷⁷ UN Panel of Experts on Sudan, para 99; Nicholas Bariyo & Gabriele Steinhauser, The Militia at the Center of the Darfur Genocide Kills Hundreds in Sudan, WSJ (Nov. 11, 2023), <https://www.wsj.com/world/africa/the-militia-at-the-center-of-the-darfur-genocide-kills-hundreds-in-sudan-b367b9ed>; Radio Tamazuj, How My Father Was Killed By RSF, Darfur Leader’s Son Narrates (Nov. 8, 2023), <https://radiotamazuj.org/en/news/article/how-my-father-was-killed-by-rsf-darfur-leaders-son-narrates> [last accessed on Apr. 2, 2024].

²⁷⁸ Harter, *supra* note 76.

²⁷⁹ UN Panel of Experts on Sudan, para 61; Radio Dabanga, DBA: Four Lawyers Slain in West Darfur ‘Deliberately Targeted’ (Jun. 21, 2023), <https://www.dabangasudan.org/en/all-news/article/dba-four-lawyers-slain-in-west-darfur-deliberately-targeted>; <https://sihanet.org/press-statement-the-footprints-of-genocide-can-be-traced-in-al-geneina/> [last accessed on Apr. 2, 2024].

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²⁸⁷ OHCHR, Joint Statement by Independent United Nations Human Rights Experts on Human Rights Responsibilities of Armed Non-State Actors (Feb. 25, 2021), <https://www.ohchr.org/en/press-releases/2021/02/joint-statement-independent-united-nations-human-rights-experts-human-rights> [last accessed on Apr. 2, 2024].

²⁸⁸ Independent International Commission of Inquiry on the Syrian Arab Republic (“Commission of Inquiry”), “They Came to Destroy”: ISIS Crimes Against the Yazidis, A/HRC/32/CRP.2, para 165 (Jun. 15, 2016)

²⁸⁹ UNAMI, A Call for Accountability and Protection: Yazidi Survivors of Atrocities Committed by ISIL, Aug. 16, at 18.

²⁹⁰ UN, ISIL/Da’esh Committed Genocide of Yazidi, War Crimes Against Unarmed Cadets, Military Personnel in Iraq, Investigative Team Head Tells Security Council (May 10, 2021), <https://press.un.org/en/2021/sc14514.doc.htm> [last accessed on Apr. 2, 2024].

²⁹¹ The ILC was established by the United Nations General Assembly (UNGA) in 1947 to undertake its mandate under Article 13(1)(a) of the Charter of the United Nations to “initiate studies and make recommendations for the purpose of [...] encouraging the progressive development of international law and its codification”; accordingly, its views, as adopted by the UNGA, are authoritative. See also *Bosnia v. Serbia*, supra note 13, at para. 149.

²⁹² Responsibility of States for Internationally Wrongful Acts, 2001, Article 4, Conduct of Organs of a State, provides: “1) The conduct of any State organ shall be considered an act of that State under international, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State. 2) An organ includes any person or entity which has that status in accordance with

the internal law of the State.” See

https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf.

²⁹³ *Id.* Article 5, Conduct of persons or entities exercising elements of governmental authority, provides: “The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.”

²⁹⁴ *Id.* Article 8: “The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of that State in carrying out the conduct.”

²⁹⁵ *Id.* Article 7 provides: “The conduct of an organ of a State or of a person or entity empowered to exercise elements of the governmental authority shall be considered an act of the State under international law if the organ, person, or entity acts in that capacity, even if it exceeds its authority or contravenes instructions.”

²⁹⁶ Sudan Tribune, Sudanese Parliament Passes RSF Act Integrating Militiamen in the Army (Jan. 16, 2017), <https://sudantribune.com/article59634/> [last accessed on Apr. 16, 2024].

²⁹⁷ Jean-Baptiste Gallopin, A Chance for Peace? The Impact of the Juba Peace Deal on Sudan’s Fragile Transition, War on the Rocks (Sep. 22, 2020), <https://warontherocks.com/2020/09/a-chance-for-peace-the-impact-of-the-juba-peace-deal-on-sudans-fragile-transition/> [last accessed on Apr. 2, 2024].

²⁹⁸ ADF, RSF’s Advances Give Control Over Half of Sudan (Nov. 28, 2023), <https://adf-magazine.com/2023/11/rsf-advances-give-it-control-over-half-of-sudan/> [last accessed on Apr. 2, 2024].

²⁹⁹ See the law of State responsibility, Art. 10.

³⁰⁰ The RSF and its allied Arab militias seized control on October 26, 2023, <https://x.com/RSFSudan/status/1717643988759371903?s=20> [last accessed on Feb. 19, 2024].

³⁰¹ The RSF and its allied Arab militias seized control on October 31, 2023, https://x.com/Osman_6600/status/1719355497881464979?s=20 [last accessed on Feb. 19, 2024].

³⁰² The RSF and its allied Arab militias seized control on November 4, 2023, <https://x.com/RSFSudan/status/1720788094134202399?s=20> [last accessed on Feb. 19, 2024].

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Quotes

“The evidence presented in this report clearly establishes the elements of genocide, leaving little doubt about the intention of the perpetrators, and the complicity of those who have encouraged, enabled, and assisted in the atrocity. These independent findings engage the obligations of all States parties to the Genocide Convention to prevent and punish the crime of genocide in Darfur.

Allan Rock, former Minister of Justice and Attorney General of Canada, and former Canadian Ambassador to the United Nations.

“The report shows that the situation in Darfur is extremely serious. Competent bodies must now act with determination – in particular the United Nations Security Council and the International Criminal Court. The rule of law is a prerequisite for international peace and security.”

Hans Corell, Judge and later Chief Legal Adviser in the Ministry of Justice and the Ministry for Foreign Affairs in Sweden (1962-1994); CSCE War Crimes Rapporteur in Croatia and Bosnia Herzegovina (1992-1993); Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations (1994-2004)

The horror of the Darfur Genocide of the early 2000s captured the attention of the world and led to global outrage and condemnation. Unfortunately, civil society’s mobilization of world opinion did not lead to meaningful change in Darfur. The Janjaweed, in their various manifestations, are impunity personified. This impunity– and its immeasurable impact on the people of Darfur– are laid bare in this report. Instead of facing justice, the perpetrators of the unspeakable horrors inflicted on the non-Arab-identifying communities of Darfur have not only prospered politically and economically over the past two decades, but may well be on their way to seizing effective control of Sudan. I commend the authors for bringing this exceptional independent inquiry into this forgotten genocidal campaign to the world’s attention. This report is essential reading for everyone committed to the state of human rights in the world today.

Gerald Gahima, Ph.D.

Former Attorney General of Rwanda (1999-2003), former Senior Fellow at the United States Institute of Peace, and author of Transitional Justice in Rwanda - Accountability for Atrocity (Routledge, 2013).

“The ongoing genocide documented in this report is eerily reminiscent of the genocide that was allowed to unfold in Darfur in 2003-2004. This report puts all states that are parties to the Genocide Convention on notice; they must act now to implement their obligation to prevent this genocide.”

Jennifer Trahan, Clinical Professor and Director of the International Law and Human Rights Concentration, NYU Center for Global Affairs; Convenor, The Global Institute for the Prevention of Aggression
