

To Permanent Representatives of Member and Observer States of the United Nations (UN) Human Rights Council, Geneva, Switzerland

9 September 2020

The Human Rights Council should support systemic human rights reforms in Sudan

Excellencies,

Ahead of the 45th session of the UN Human Rights Council, and at a critical juncture for Sudan, we, the undersigned civil society organisations, write to highlight the need for your delegation to support the Council’s ongoing contribution to systemic human rights reforms in the country. As Sudan’s political transition remains fragile, the Council has a responsibility to both support national authorities and actors and maintain the monitoring and public reporting capacity of the Office of the UN High Commissioner for Human Rights (OHCHR).

The work conducted by the Independent Expert (IE), who is due to present his report to the Council at its 45th session (14 September-6 October 2020), provides critical oversight over the situation in Sudan. The OHCHR, which in September 2019 signed a milestone agreement with the Sudanese Government regarding the opening of a country office, also provides valuable updates to the Council. On 16 July 2020, during the Council’s 44th session, OHCHR indicated that its country office in Khartoum was operational. Adequate resourcing of its regional field offices will allow the High Commissioner to declare her Office to be fully operational in the country.

The last Council resolution on Sudan, resolution 42/35, welcomed “the exemplary, non-violent and inspiring popular uprising of the Sudanese people, in particular the wide participation of women and youth, calling for freedom, peace and justice, which led to a fundamental change in the political situation. . .”¹ After years of tense relationships, the 42nd session witnessed a marked improvement in the negotiation process around the Sudan resolution, including the openness of the Sudanese Permanent Mission in Geneva to regular meetings with independent civil society organisations, active engagement with delegations, and agreement on the inclusion of progressive language on human rights defenders (HRDs), civil society, and civil and political rights in the resolution. These changes have enhanced ownership and mutual trust.

The last 20 months have brought about significant changes for the Sudanese people and Sudan’s relationship with independent human rights actors. Some of these changes have the potential for becoming systemic, if they are sustained and complemented with wide-ranging institutional, legislative, and policy reforms. Progress registered so far includes the adoption of a Constitutional Document, the formation of a Sovereign Council, and the appointment of a Civilian-Led Transitional Government.

Regarding the ongoing peace process, Juba-hosted talks led to the signing of a power-sharing agreement between the Sudanese Government, the Sudanese Revolutionary Front, and the Sudan Liberation Movement (Minni Minnawi faction), and to a peace agreement between the Sudanese government and the Sudan Revolutionary Front, an alliance of nine political and armed groups from different parts of the country, including Blue Nile, Darfur, South Kordofan, Northern, and Eastern Sudan, which was signed on 31 August 2020.²

¹ UN General Assembly, “Resolution adopted by the Human Rights Council on 27 September 2019, ‘Technical assistance and capacity-building to further improve human rights in the Sudan’,” 3 October 2019, available at: <https://undocs.org/A/HRC/RES/42/35> (accessed on 19 August 2020), preambular paragraph 6.

² A number of groups, namely the Sudan Liberation Movement/Army-Abdul Wahid Nur (SLM/A-AW) and the Sudan People’s Liberation Movement-North (SPLM-N) (Abdel Aziz Al-Hilu faction), remain outside the agreement. See Amnesty International, “Sudan: Peace

Respect for women's and girls' rights has also improved with the repeal of the Public Order Law, the imposition of a ban on female genital mutilation (FGM), and the fact that women no longer need permission from a male relative to travel with their children. Legal reform, including criminal justice reform, is underway.³ In July 2020, authorities scrapped the apostasy law. They have also scrapped public flogging for non-*hudud* offenses. Prosecutions, including that of former President Omar Al-Bashir for economic crimes, have been launched. Authorities have told media they now have contact with the International Criminal Court (ICC), although it remains unclear how they will cooperate. Far more legal reform is needed, including the repeal or amendments of key problematic provisions in the Criminal Act 1991, the Emergency and Protection of Public Safety Act 1997, and other laws.

The Transitional Government announced a "full cooperation" policy towards the United Nations, which includes cooperation with the Council and its mechanisms, as well as ratifications, namely of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Government committed to reviewing legislation to bring it fully in line with international human rights standards and the Constitutional Document.

The civic and democratic space has opened, with Sudanese citizens, including HRDs and civil society, enjoying greater respect for their rights to freedom of opinion and expression (including freedom of the media and access to information), freedom of peaceful assembly and association, and freedom of movement. Several of the signatory organisations have been able to visit the country since the formation of a Transitional Government. They have witnessed first-hand an overwhelming sense of pride that the Sudanese people reclaimed their space and rights and now have a Government that works for all citizens and is responsible before them.⁴

However, as Sudan faces a multi-faceted crisis with economic, social and human rights dimensions, and as the Covid-19 pandemic is taking its toll, its political transition remains fragile. A history of comprehensive sanctions, the United States administration's continued listing of Sudan as a "State sponsor of terrorism," and endemic corruption and mismanagement have added to these challenges by negatively affecting livelihoods and recovery.

The humanitarian situation, including internal displacement, remains serious. The last few weeks have witnessed an increase in violence against civilians in Darfur and intercommunal conflicts in the Eastern part of the country. The abuses committed, including sexual and gender-based violence (SGBV) and deliberate attacks against civilians and internally displaced persons (IDPs), have all the hallmarks of RSF/ex-Janjaweed violence. As the African Union/UN Mission in Darfur (UNAMID) is drawing down and will likely leave a gap for protection and human rights monitoring, urgent action is needed to protect civilians.⁵

Significant steps are yet to be taken to address systemic human rights issues and achieve meaningful, sustainable progress. Justice and accountability remain elusive for the egregious violations and abuses committed under the 30-year Al-Bashir dictatorship, including violations that may amount to crimes

agreement must deliver on people's quest for dignity and justice," 31 August 2020, <https://www.amnesty.org/en/latest/news/2020/08/sudan-peace-agreement-must-deliver-on-peoples-quest-for-dignity-and-justice/> (accessed on 1 September 2020).

³ Among others, recent reforms include the adoption of the Rights and Justice System Reform Commission Act, Miscellaneous Amendments (Fundamental Rights and Freedoms) Act, and amendments to the Criminal Code.

⁴ DefendDefenders, "At a critical juncture for Sudan, DefendDefenders visits the country and shows solidarity with its people and civil society," 29 October 2019, <https://defenddefenders.org/at-a-critical-juncture-for-sudan-defenddefenders-visits-the-country-and-shows-solidarity-with-its-people-and-civil-society/>; Human Rights Watch, "Sudan: Progress on Rights, Justice, Key to Transition; Expedite Reform, Investigations, Prosecutions," 20 February 2020, <https://www.hrw.org/news/2020/02/20/sudan-progress-rights-justice-key-transition> (both accessed on 20 August 2020).

⁵ African Centre for Justice and Peace Studies, "Sudan: Urgent call to the Transitional Government to ensure the safety and protection of all Sudanese," 6 August 2020, <https://www.acjps.org/sudan-urgent-call-to-the-transitional-government-to-ensure-the-safety-and-protection-of-all-sudanese/> (accessed on 19 August 2020).

under international law, especially in Darfur, Blue Nile, and South Kordofan, and the 3 June 2019 massacre.⁶ The national committee of inquiry has not yet completed its work. Al-Bashir and other ICC indictees are yet to be transferred to The Hague to face justice, despite the recent surrender of Ali Kushayb to authorities in the Central African Republic (CAR) and his subsequent transfer to the ICC.

Protests are ongoing⁷ across the country over the slow pace of reforms and lack of justice and accountability for abuses; some of these have been met with violence, including lethal force.⁸ Regional imbalances remain, which perpetuate the social, economic and political marginalisation of communities living in the peripheries, in particular conflict and former conflict areas of Darfur, Blue Nile, and South Kordofan. In Khartoum and elsewhere, imbalances of power remain obvious between the civilian and military sides of the executive branch. A network of State-owned companies controlled by the military and security apparatus still operate and may even fuel crimes against civilians.⁹

At the institutional level, the government has done too little to ensure gender equality; despite their role at the forefront of the Revolution, women remain largely excluded from positions of authority. A legislative council is yet to be formed and a comprehensive, human rights-based security sector reform of the army, the paramilitary RSF, former national security agency and other security forces, has yet to be launched. Commissions on human rights, law reform, and transitional justice also need to be established.

As Sudan attempts to strengthen gains of its Revolution and prevent setbacks, the Human Rights Council has a role to play. It has both a responsibility to keep Sudan high on its list of priorities and an opportunity to contribute to meaningful progress in the country.

The Council's 45th session will take place as Sudan is a Council member and a new chapter is opening for the relationship between the UN human rights system and the country. In this context, all avenues should be explored. "[An OHCHR] country office and ongoing consideration by the Council are not mutually exclusive. They are rather mutually reinforcing, as Council action provides political back up to expert work, while OHCHR work places expertise at the centre of political interventions."¹⁰ OHCHR could serve as a catalyst for engagement with, and support to, Sudan, including by highlighting priority technical assistance and capacity-building areas, raising attention to key human rights issues, and following up on all UN recommendations made to Sudan.

The Council should throw its full weight behind Sudan's political transition, core imperatives of the Constitutional Document, and the Transitional Government. However, it is the Council's responsibility to continue monitoring the human rights situation, discussing it publicly, and ensuring independent investigations into instances and patterns of grave violations and abuses. The Council should stand ready to help establish the facts and circumstances of such violations, provide victims, survivors and their families with justice, and advance accountability – including by setting up an independent inquiry should domestic processes and institutions fail to deliver accountability, justice, reparations, and guarantees of non-repetition.

⁶ Human Rights Watch, "Sudan: Justice for June 3 Crackdown Delayed," 2 June 2020, <https://www.hrw.org/news/2020/06/02/sudan-justice-june-3-crackdown-delayed> (accessed on 20 August 2020).

⁷ Radio Dabanga, "Sit-ins spread in Sudan," 13 July 2020, <https://www.dabangasudan.org/en/all-news/article/sit-ins-spread-in-sudan> (accessed on 1 September 2020).

⁸ Al Jazeera, "One killed in Sudan as thousands rally for faster reform," 1 July 2020, <https://www.aljazeera.com/news/2020/06/sudan-protesters-return-streets-demand-reforms-200630154320885.html>; Al Jazeera, "Sudanese protest a year after power-sharing deal with army," 17 August 2020, <https://www.aljazeera.com/news/2020/08/sudanese-protest-year-power-sharing-deal-army-200817163531098.html> (both accessed on 20 August 2020).

⁹ See Human Rights Watch, "Sudan: Prioritize Justice and Institutional Reforms Government; Partners Should Support Transition," 23 June 2020, <https://www.hrw.org/news/2020/06/23/sudan-prioritize-justice-and-institutional-reforms#> (accessed on 19 August 2020).

¹⁰ Nicolas Agostini, "The UN human rights system and Sudan: a new chapter?," 2 May 2019, <https://www.universal-rights.org/by-invitation/the-un-human-rights-system-and-sudan-a-new-chapter/> (accessed on 20 August 2020).

At its 45th session, the Council should adopt a resolution extending technical assistance and capacity-building to the Sudanese Government and human rights actors in the country, while ensuring regular monitoring of, and reporting to the Council on, the human rights situation and the work of the OHCHR country office.

We thank you for your attention to these pressing issues and stand ready to provide your delegation with further information as required.

Sincerely,

1. Activists for Human Rights – Canada
2. African Centre for Justice and Peace Studies (ACJPS)
3. Al Khatim Adlan Centre for Enlightenment and Human Development (KACE)
4. Arab Program for Human Rights Activists – Egypt
5. Cairo Institute for Human Rights Studies (CIHRS)
6. CSW (Christian Solidarity Worldwide)
7. DefendDefenders (East and Horn of Africa Human Rights Defenders Project)
8. Global Centre for the Responsibility to Protect
9. Human Rights Watch
10. Huqooq (Sudanese Human Rights Group) Organization
11. International Federation for Human Rights (FIDH)
12. International Refugee Rights Initiative (IRRI)
13. Journalists for Human Rights (JHR) – Sudan
14. Justice Africa Sudan
15. Physicians for Human Rights (PHR)
16. REDRESS
17. Regional Centre for Training and Development of Civil Society (RCDCS)
18. The Sentry
19. Strategic Initiative for Women in the Horn of Africa (SIHA)
20. Sudanese Lawyers and Legal Practitioners' Association in the UK
21. Sudanese Lawyers for Justice
22. Sudanese Organization for Research and Development
23. Sudan Human Rights Monitor (SHRM)