

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

28 October 2021

Sudan: The UN Human Rights Council should act urgently and hold a special session

Excellencies,

As violence is increasing in Sudan following the military coup of 25 October 2021 and decisive action is needed to protect the transition, Sudan's constitutional order, and the human rights of people in Sudan, the UN Human Rights Council has a responsibility to act urgently.

The Council should fulfil its mandate to prevent violations and respond promptly to human rights emergencies by convening a special session and adopting a resolution requesting the UN High Commissioner for Human Rights to set up a fact-finding mission to monitor, verify and report on the situation in Sudan with a view to preventing further human rights violations and abuses, identifying perpetrators, and ensuring accountability for these violations and abuses.

Ahead of the 48th session of the Human Rights Council (13 September-11 October 2021), 37 civil society organisations (CSOs) highlighted¹ the need for the Council to extend its support to, and scrutiny of, Sudan. The CSOs highlighted that Sudan's political transition remained incomplete, mentioned ongoing challenges and risks, and urged States to maintain the monitoring and public reporting capacity of the Office of the UN High Commissioner for Human Rights (OHCHR). They wrote: “[T]he Human Rights Council has a responsibility to keep Sudan high on its list of priorities and to contribute to meaningful progress in the country.”

Their call remained unanswered as the Council failed to adopt any Sudan-focused resolution.

Two weeks after the session ended, on 25 October 2021, Sudan's military forces arrested Prime Minister Abdalla Hamdok and several civilian figures, including members of the Transitional Government and Transitional Sovereign Council (SC), who were placed under house arrest or taken to unknown locations. At the time of writing, several of them remain held incommunicado or under house arrest. Military elements took control of the national television and key centres of information. They imposed a partial internet shutdown in the country and closed roads, bridges, and the airport in Khartoum.

This military coup occurred one month before the head of the former Transitional Military Council (TMC), General Abdel-Fattah al-Burhan, who had since August 2019 been heading the SC, was due to hand over the presidency of the SC to civilian representatives, as per the power-sharing agreement and Constitutional Document of 2019.²

General al-Burhan announced a nation-wide state of emergency and the dissolution of the SC and the civilian-led Transitional Government.

He unilaterally announced the suspension of Articles 11, 12, 15, 16, 24-3, 71, and 72 of the Constitutional Document. These articles pertain to the SC, the Transitional Council of Ministers and Cabinet,

¹ DefendDefenders *et al.*, “The Human Rights Council should extend its support to, and scrutiny of, Sudan,” 10 September 2021, <https://defenddefenders.org/the-human-rights-council-should-extend-its-support-to-and-scrutiny-of-sudan/> (accessed on 26 October 2021).

² For background, see DefendDefenders *et al.*, “Sudan: ensuring a credible response by the UN Human Rights Council,” 3 September 2019, <https://defenddefenders.org/sudan-ensuring-a-credible-response-by-the-un-human-rights-council/> (and Annex) (accessed on 26 October 2021).

the Transitional Legislative Council (which was to be constituted), and the TMC. The latter's dissolution seems to have been annulled, paving the way for military rule.³

The coup and military takeover also threaten the implementation of the Juba Peace Agreement for Sudan, which was signed on 3 October 2020 between the Transitional Government and parties to the peace process, including armed groups that were involved in the conflicts that have affected several of Sudan's regional States in the last three decades.

General al-Burhan sought to justify the illegal takeover by blaming "political infighting" within civilian bodies and groups, including the Transitional Government and the Forces for Freedom and Change (FFC), the coalition that brings together the Sudanese Professionals Association (SPA), civic groups, and political parties that signed the Declaration on Freedom and Change of January 2019 and led the peaceful popular revolution of 2018-2019 that led to the ouster of former President Omar al-Bashir, in April 2019, and the political transition. General al-Burhan even asserted that the army had ousted the government to avoid a "civil war."⁴

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Immediately after the coup was reported, and despite restrictions on communications, protesters peacefully took to the streets to denounce the military's illegal actions and demand the reinstatement of the government and a transition to civilian rule. The SPA called for strikes and civil disobedience. Protesters erected barricades in the streets. Soldiers opened fire on crowds and reportedly killed at least ten people and injured dozens. Arrests have been reported.⁵

These acts demonstrate the armed and security forces' lack of commitment to a democratic transition to civilian rule and their determination to consolidate control, including by using violence. The 25 October 2021 military coup followed a reported coup attempt on 21 September 2021, which "the military blamed on a cadre of Bashir-allied Islamists but which several diplomats described [...] as a trial balloon," as tensions were growing within the SC.⁶

Fears of a full-fledged, bloody crackdown are mounting. These fears are made credible by the illegal actions of the reconstituted TMC, the history of violence and abuse that characterises Sudan's armed and security forces, including the Rapid Support Forces (RSF), and the current context, including restrictions on communications, which are reminiscent of the shutdown that was imposed following the atrocities committed on 3 June 2019 (known as the "Khartoum massacre"⁷).

³ Al Jazeera, "Sudan coup: Which constitutional articles have been suspended?" 26 October 2021, <https://www.aljazeera.com/news/2021/10/26/sudan-coup-which-constitutional-articles-suspended> (accessed on 26 October 2021).

⁴ France 24, "Sudan's Burhan says army ousted government to avoid civil war," 26 October 2021, <https://www.france24.com/en/video/20211026-sudan-s-burhan-says-army-ousted-government-to-avoid-civil-war> (accessed on 27 October 2021).

⁵ Al Jazeera, "'No to army rule': Pro-democracy protesters take to Sudan streets," 27 October 2021, <https://www.aljazeera.com/gallery/2021/10/27/pro-democracy-protesters-continue-to-march-in-khartoum>; BBC News, "Sudan coup: Why the army is gambling with the future," 27 October 2021, <https://www.bbc.com/news/world-africa-59050473> (both accessed on 27 October 2021).

⁶ International Crisis Group, "Reversing Sudan's Dangerous Coup," 26 October 2021, <https://www.crisisgroup.org/africa/horn-africa/sudan/reversing-sudans-dangerous-coup>. See also BBC News, "Sudan failed coup: Government blames pro-Bashir elements," 21 September 2021, <https://www.bbc.com/news/world-africa-58629978> (both accessed on 27 October 2021).

⁷ See previous civil society letters on Sudan, in particular International Refugee Rights Initiative *et al.*, "Killings of Peaceful Sudanese Democracy Protesters Demand Accountability: Urgent International Action Needed to Prevent Further Violence," 6 June 2019, <http://refugee-rights.org/killings-of-peaceful-sudanese-democracy-protesters-demand-accountability-urgent-international-action-needed-to-prevent-further-violence/>; DefendDefenders *et al.*, "Sudan: ensuring a credible response by the UN Human Rights Council," 3 September 2019, <https://defenddefenders.org/sudan-ensuring-a-credible-response-by-the-un-human-rights-council/> (and Annex); DefendDefenders *et al.*, "The Human Rights Council should support human rights

While the total number of arrests made is unknown, it is likely to increase after the release of the present letter. Human rights defenders (HRDs), protest organisers, journalists, and independent voices, in particular women human rights defenders (WHRDs), women journalists, and women and girls protesting the coup, are at a heightened risk of being subjected to violations and abuses. These include arbitrary arrests, the use of unwarranted and lethal force, beatings, ill-treatment and torture, and sexual and gender-based violence, as was the case during the Khartoum massacre.⁸

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The coup has drawn condemnation. States, including partners of Sudan, condemned it as a betrayal of the transition, demanded the release of political leaders, and urged full observance for the Constitutional Document and the reinstatement of transitional institutions.⁹

The Intergovernmental Authority on Development (IGAD), of which Sudan is a Member, issued a statement in which its Executive Secretary, Dr. Workneh Gebeyehu, said he was “alarmed by the current political developments.” He “strongly condemn[ed] any attempt to undermine the transitional government” and called for the “immediate release” of all arrested political leaders.¹⁰

The Arab League expressed “deep concern” about the military coup. The organisation’s Secretary-General urged all parties to “fully abide” by the Constitutional Declaration signed in August 2019.¹¹

The Chairperson of the African Union (AU) Commission, Moussa Faki Mahamat, who learned “with deep dismay of the serious development of the current situation in Sudan,” called “for the immediate resumption of consultations between civilians and military” and reaffirmed that “dialogue and consensus is the only relevant path to save the country and its democratic transition.” He further called “for the release of all arrested political leaders and the necessary strict respect of human rights.”¹² However, despite the Lomé Declaration on Unconstitutional Changes of Government,¹³ he did not convey a “clear and unequivocal warning to the perpetrators of the unconstitutional change that, under no circumstances, will their illegal action be tolerated or recognized by the [AU].”

The AU Peace and Security Council (PSC) met on 26 October 2021. The following day, it released a communiqué¹⁴ in which it “strongly condemn[ed] the seizure of power by the Sudanese military on 25 October 2021 and the dissolution of the Transitional Government, and totally reject[ed] the unconstitutional change of government, as unacceptable and an affront to the shared values and democratic

reforms in Sudan,” 9 September 2020, <https://defenddefenders.org/the-human-rights-council-should-support-human-rights-reforms-in-sudan/> (all accessed on 26 October 2021).

⁸ Human Rights Watch, “‘They Were Shouting ‘Kill Them’: Sudan’s Violent Crackdown on Protesters in Khartoum,” 17 November 2019, <https://www.hrw.org/report/2019/11/18/they-were-shouting-kill-them/sudans-violent-crackdown-protesters-khartoum> (accessed on 26 October 2021).

⁹ For a comprehensive list of responses by Governments and intergovernmental organizations to the military coup, see Sudan Unlimited, “World Unites with the People of Sudan and Against #SudanCoup,” www.sudanunlimited.com/take-action (accessed on 26 October 2021).

¹⁰ “IGAD Statement On The Current Political Development In Sudan,” 25 October 2021, <https://igad.int/executive-secretary/2868-igad-statement-on-the-current-political-development-in-sudan> (accessed on 26 October 2021).

¹¹ Asharq al-Awsat, “Arab League Expresses ‘Deep Concern’ over Sudan,” 25 October 2021, <https://english.aawsat.com/home/article/3265581/arab-league-expresses-deep-concern-over-sudan> (accessed on 26 October 2021).

¹² “Statement of the Chairperson of the African Union Commission on the situation in Sudan,” 25 October 2021, <https://au.int/en/pressreleases/20211025/statement-chairperson-au-commission-situation-sudan> (accessed on 26 October 2021).

¹³ AU PSC, “Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government” (AHG/Decl.5 (XXXVI)), 10-12 July 2000, <https://www.peaceau.org/uploads/ahg-decl-5-xxxvi-e.pdf> (accessed on 25 October 2021).

¹⁴ “Communiqué of the 1041st meeting of the Peace and Security Council of the African Union held on 26 October 2021 on the Situation in Sudan,” 27 October 2021, <https://www.peaceau.org/en/article/communique-of-the-1041th-meeting-of-the-peace-and-security-council-of-the-african-union-held-on-26-october-2021-on-the-situation-in-sudan> (accessed on 27 October 2021).

norms of the AU.” It decided to “suspend, with immediate effect, the participation of the Republic of Sudan in all AU activities until the effective restoration of the civilian-led Transitional Authority.”

While this is a positive step, more needs to be done to stop military rule and protect the transition, Sudan’s constitutional order, and the human rights of people in Sudan. As repression increases, AU mediation efforts and Human Rights Council action are not mutually exclusive but complementary.

The UN Secretary-General, Mr. António Guterres, “strongly condemn[ed] the ongoing military coup d’état in Khartoum and all actions that could jeopardize Sudan’s political transition and stability.” He called for the immediate reconstitution of the governing arrangements provided for under the Constitutional Document.” He referred to the “unlawful detention” of the Prime Minister, government officials and politicians as “unacceptable” and called for the immediate release of those detained arbitrarily. He added: “Any attempts to undermine this transition process puts at risk Sudan’s security, stability and development.”¹⁵

The Special Representative for Sudan and Head of the UN Integrated Transition Assistance Mission in Sudan (UNITAMS), Mr. Volker Perthes, said he was “deeply concerned about reports of an ongoing coup and attempts to undermine Sudan’s political transition.” He “called on the security forces to immediately release those who have been unlawfully detained or placed under house arrest” and urged an “[immediate] return to dialogue and [engagement] in good faith to restore the constitutional order.”¹⁶

For her part, the UN High Commissioner for Human Rights, Ms. Michelle Bachelet, “strongly condemn[ed] [the] military coup in Sudan and the declaration of a nationwide state of emergency, the suspension of key articles of the Constitutional Document and the governing bodies.” She reminded “military and security forces to refrain from unnecessary and disproportionate use of force, to respect people’s freedom of expression, as well as the right of peaceful assembly.” She added: “It would be disastrous if Sudan goes backwards after finally bringing an end to decades of repressive dictatorship.”¹⁷

On 26 October, the UN Security Council met behind closed doors to discuss the crisis. It failed to adopt a resolution to unequivocally condemn the military coup, or even to release a statement.

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In this context, the Human Rights Council cannot afford to stay silent or wait for its next regular session, which is due to open on 25 February 2022, to act.

It should make clear that the TMC cannot be considered a legitimate partner; strongly condemn the military coup; urge full respect for the Constitutional Document and the reinstatement of transitional institutions; call for an immediate stop to the violence against protesters; demand a release of all political prisoners; and demand accountability for the human rights violations and abuses committed.

The Human Rights Council should fulfil its mandate to prevent violations and respond promptly to human rights emergencies, convene a special session, and request the UN High Commissioner for Human Rights to set up a fact-finding mission to monitor, verify and report on the situation in Sudan with a view to preventing further human rights violations and abuses, identifying perpetrators, and ensuring accountability for these violations and abuses.

The report of the fact-finding mission should be shared with the UN Security Council. The Human Rights Council should further ensure that the High Commissioner publicly and regularly

¹⁵ “Statement attributable to the Spokesperson for the Secretary-General - on Sudan,” 25 October 2021, <https://www.un.org/sg/en/node/260286> (accessed on 26 October 2021).

¹⁶ “SRSRG Statement about Reports of an Ongoing Coup and Attempts to Undermine Sudan’s Political Transition,” 25 October 2021, <https://unitams.unmissions.org/en/srsg-statement-about-reports-ongoing-coup-and-attempts-undermine-sudan’s-political-transition> (accessed on 26 October 2021).

¹⁷ “Statement by UN High Commissioner for Human Rights Michelle Bachelet on the coup d’état in Sudan,” 25 October 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27695&LangID=E> (accessed on 26 October 2021).

reports on the human rights situation in Sudan, relying on both in-house expertise and the work of the OHCHR country office in Sudan, and it should hold interactive dialogues on the human rights situation in Sudan twice a year.

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

Sincerely,

1. African Centre for Justice and Peace Studies (ACJPS)
2. AfricanDefenders (Pan-African Human Rights Defenders Network)
3. African Initiative for Peacebuilding, Advocacy and Advancement (AfriPeace)
4. Cairo Institute for Human Rights Studies (CIHRS)
5. Centre for the Study of Violence and Reconciliation (CSVSR)
6. CIVICUS: World Alliance for Citizen Participation
7. CSW (Christian Solidarity Worldwide)
8. Darfur and Beyond
9. DefendDefenders (East and Horn of Africa Human Rights Defenders Project)
10. Global Centre for the Responsibility to Protect
11. Global Rights
12. Human Rights and Peace Centre (HURIPeC)
13. International Federation for Human Rights (FIDH)
14. International Refugee Rights Initiative (IRRI)
15. International Service for Human Rights (ISHR)
16. Justice Center for Advocacy and Legal Consultations
17. Kamma Organization for Development Initiatives (KODI)
18. Kenya Human Rights Commission
19. Kongamano La Mapinduzi
20. Lawyers for Justice Sudan
21. Mouvement Inamahoro
22. Never Again Coalition
23. Pan African Lawyers Union (PALU)
24. PAX
25. Physicians for Human Rights
26. REDRESS
27. Regional Centre for Training and Development of Civil Society (RCDCS)
28. Rights Realization Centre (RRC)
29. The Sentry
30. Skills for Nuba Mountains
31. The Strategic Initiative for Women in the Horn of Africa (SIHA)
32. Sudan Archives
33. Sudan Human Rights Hub
34. Sudan Unlimited
35. Victims Advocates International
36. Zimbabwe Lawyers for Human Rights