



AN UNFINISHED REVOLUTION:

The situation of women human rights defenders
in Sudan



DEFENDDEFENDERS

East and Horn of Africa Human Rights Defenders Project

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The image used in this report was taken by Mugtaba Muawia Mahmoud Ali.

"When it came time to develop the agenda for Sudan and the political sphere the exclusion of WHRDs was clear. From what I've seen of my colleagues, WHRDs, they do not have a presence in these spaces anymore."

– HRD, South Kordofan.

"We can say it is equal [between men and women] to some extent, but I see it as fragile equality that happened as a result of complying with the policies of the international organizations who provide funds. We need a clear law or a policy that grants equal opportunities of work, training and to ensure positive discrimination."

– WHRD, Khartoum.

"We made huge sacrifices, but there is no tangible change and the current procedures to cause change are very slow. There is no sense of victory of the Revolution or that the Revolution achieved its goals."

– WHRD, Khartoum.

"This is our duty towards our community and country to reach the change we want to see in everything."


– WHRD, South Kordofan.

TABLE OF CONTENTS

05	List of Acronyms and abbreviations	21	The legal and Institutional Framework For HRDs And WHRDs in Sudan
07	Note to Reader	36	Post-Revolution Climate for WHRDs
09	Foreword	66	Needs of the HRD Community
06	About Defend defenders	69	Conclusion
12	Executive Summary	71	Recommendations
14	Methodology	75	Annex
17	Sudanese Revolution		

LIST OF ACRONYMS AND ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
ACJPS	African Centre for Justice and Peace Studies
AU	African Union
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COVID-19	Coronavirus disease 2019
CPA	Comprehensive Peace Agreement
CSO	Civil society organisation
FFC	Forces for Freedom and Change
FGM	Female genital mutilation
GBV	Gender-based violence
HAC	Humanitarian Aid Commission
HRC	United Nations Human Rights Council
HRD	Human rights defender
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MANSAM	Sudanese Women in Civic and Political Groups (or Women of Sudanese Civic and Political Groups)
NGO	Non-governmental organisation
NHRC	National Human Rights Commission
NISS	National Intelligence and Security Service
RSF	Rapid Support Forces
SAF	Sudanese Armed Forces
SC	Sovereign Council (or Sovereignty Council)
SGBV	Sexual and gender-based violence



SJN	Sudanese Journalists Network
SLM/A	Sudan Liberation Movement/Army
SOGI	Sexual orientation and gender identity
SPA	Sudanese Professionals Association
SPLM/A	Sudan People's Liberation Movement/Army
SRHR	Sexual and reproductive health and rights
SWU	Sudanese Women's Union
TMC	Transitional Military Council
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review
WHRD	Woman human rights defender

Since the research for this report was conducted, and as a final draft was being finalised, the Sudanese military commanded by General Abdel-Fattah al-Burhan led a military coup against the sitting Transitional Government. On 25 October 2021, Sudanese military forces arrested Prime Minister Abdalla Hamdok and several civilian figures, including members of the Transitional Government and Sovereign Council (SC), and either placed them under house arrest or detained them in unknown locations. Military elements took control of the national television, imposed a partial internet shutdown, and closed roads, bridges, and the airport in Khartoum.

General al-Burhan announced a nation-wide state of emergency and the dissolution of 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.¹ These articles pertain to the SC, the Transitional Council of Ministers and cabinet, the Transitional Legislative Council (which was to be constituted), and the former Transitional Military Council (TMC).² The coup occurred one month before the head of the former TMC, General al-Burhan, was due to hand over the presidency of the SC to civilian representatives.³ On 11 November 2021, General al-Burhan appointed a new governing SC, a decision denounced as null and void by the Sudanese Professionals Association (SPA), one of the main civilian and civic groups in Sudan.⁴ On 21 November 2021, General al-Burhan reinstated ousted Prime Minister Hamdok under a new power-sharing agreement. He agreed to release all political prisoners and recognised that the 2019 Constitutional Document was to remain the basis of the political transition. However, the civilian coalition and the SPA, as well as 12 ousted ministers, refused to acknowledge the new agreement.⁵

This military coup is an attack on the 2019 power-sharing agreement between civilian and military forces, the Constitutional Document, and the political transition (see below). It also threatens progress achieved in the field of human rights and civic space, including elements presented in this report. Immediately after the coup was reported, protesters peacefully took to the streets to denounce the military's illegal actions and demand a transition to civilian rule.

¹ Constitutionnet, "Sudan Constitutional Declaration August 2019," <https://constitutionnet.org/vl/item/sudan-constitutional-declaration-august-2019> (accessed 23 November 2021)

² 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 26 October 2021). See also DefendDefenders et al., "Sudan: The UN Human Rights Council should act urgently and hold a special session," 28 October 2021, <https://defenddefenders.org/sudan-the-un-human-rights-council-should-act-urgently-and-hold-a-special-session/> (accessed 9 November 2021).

³ 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 26 October 2021).

⁴ Al Jazeera, "Sudan army chief names new governing Sovereign Council," 11 November 2021, <https://www.aljazeera.com/news/2021/11/11/sudan-army-chief-issues-a-decree-for-new-sovereign-council> (accessed 12 November 2021).

⁵ Al Jazeera, "Sudan's Hamdok reinstated as PM after political agreement signed," 21 November 2021, <https://www.aljazeera.com/news/2021/11/21/sudans-hamdok-reinstated-as-pm-after-political-agreement-signed> (accessed 23 November 2021)

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.⁶ On 21 November 2021, mass protests continued in the capital Khartoum, and its two sister cities, Omdurman and Bahri. Security forces fired live bullets and tear gas to disperse the crowds. At the time of writing, since the coup, at least 40 people have lost their lives during the mass peaceful protests.⁷ The coup drew international and African condemnation. 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.⁸

On 5 November 2021, following intensive advocacy by DefendDefenders and partners, the United Nations Human Rights Council (HRC) adopted a resolution on Sudan in a special (emergency) session. The HRC requested the United Nations (UN) High Commissioner for Human Rights, Michelle Bachelet, to designate an expert to monitor the situation in Sudan and engage with all relevant parties, including civil society, until the restoration of the civilian-led Transitional Government.⁹ On 12 November 2021, Michelle Bachelet designated Adama Dieng of Senegal as an expert on human rights in Sudan.¹⁰ While these developments significantly impact the situation and working environment for human rights defenders (HRDs), including women human rights defenders (WHRDs), DefendDefenders stands by its findings and analysis and reiterates that WHRDs will be key in achieving sustainable human rights progress in Sudan. The various dimensions pertaining to HRDs' and WHRDs' work explored in this report, including the need to improve the working environment for WHRDs, the need to combat the discrimination, harassment, stigma, and violence Sudanese women and Sudanese WHRDs face, and the need to effect social change through a range of measures and actions in the public and private spheres, including behavioural change at the community and family levels, remain valid.

While DefendDefenders urges a return to the transition process and a full transition to civilian rule, it stresses that the Sudanese Revolution will remain unfinished until Sudanese women and WHRDs achieve equality and are able to work free from fear, violence, and insecurity.

⁶ 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 27 October 2021).

⁷ BBC, "Sudan's military reinstates ousted civilian prime Minister Hamdok," 23 November 2021, <https://www.bbc.com/news/world-africa-59364349> (accessed 23 November 2021).

⁸ 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 26 October 2021).

⁹ DefendDefenders, "The UN Human Rights Council takes a step to address the crisis in Sudan," 5 November 2021, <https://defenddefenders.org/the-un-human-rights-council-takes-a-step-to-address-the-crisis-in-sudan/> (accessed 9 November 2021).

¹⁰ "UN Human Rights Chief designates Adama Dieng as expert on human rights in Sudan," 12 November 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27808&LangID=E> (accessed 23 November 2021).

Sudan is at a critical juncture following the 25 October 2021 military coup, which resulted in the dissolution of the Transitional Government and suspension of transitional institutions and arrangements. The military takeover threatens the gains of the popular peaceful Sudanese Revolution, which began in December 2018 and continued for several months until President Omar al-Bashir was ousted in April 2019. The popular protests that took place daily during these months were powered by Sudanese people who wanted better for their country.

Women were consistently at the forefront of the protests, with estimations (despite the challenge of compiling reliable statistics) that they often made up to 70% of demonstrators on the streets – many of them being youth. These women faced threats and risks, including of harassment, arbitrary arrest and detention, physical assault, and sexual violence. Yet, they continued to fight for their rights and those of the people around them.

In 2019, AfricanDefenders (the Pan-African Human Rights Defenders Network) awarded the group of women activists, Sudan Women Protest, with the Pan-African Shield Award and the North-Africa Shield Award in recognition of their dedication and progressive work to promote peace and justice throughout the Sudanese Revolution.¹¹

In October 2019, I conducted a mission to Sudan along with two DefendDefenders colleagues. It was our chance to show solidarity with Sudanese HRDs and civil society organisations (CSOs), while assessing needs on the ground and building partnerships. During the mission, we met with inspiring activists, many of whom were young, female, and dedicated to change. We saw the determination of Sudanese WHRDs and we committed to honour and amplify their work and cause.

The human rights situation in Sudan is a priority for DefendDefenders' regional and international advocacy. Sudan remains on the Human Rights Council's agenda, following a special session held on 5 November 2021. DefendDefenders leads initiatives on the country at both regional and international level. Since its establishment in 2005, under the al-Bashir regime, DefendDefenders has paid attention to the situation of, and assisted, Sudanese HRDs and WHRDs, including through the provision of protection and capacity-building and through advocacy in international and regional fora. It has also supported national HRDs networks. In 2020, DefendDefenders announced a year of focus on Sudan.

¹¹ AfricanDefenders, "North Africa & Pan-African Shield Awards 2019: Sudan Women Protest," available at: <https://africandefenders.org/sudan-women-protest/> (accessed 7 September 2021).

The research that informs this report was commissioned as part of this initiative. Throughout 2020, we renewed our focus on post-Revolution Sudan, throughout our advocacy, research, and capacity-building work to help Sudanese HRDs reclaim their space. We facilitated more trainings and network-building and aimed to hold our annual flagship event Claiming Spaces in Sudan in 2020.

Unfortunately, 2020 was also the year that the world abruptly changed due to the Coronavirus disease 2019 (COVID-19) pandemic. The East and Horn of Africa was affected by the virus, but Sudan was one of the worst affected in the sub-region.¹² This meant that our research trip and Claiming Spaces event were postponed until 2021, provided it became safer to travel.

Despite these challenges, DefendDefenders remains committed to civil society and HRDs in Sudan and is conducting ongoing efforts and consultations to form a human rights defenders coalition in Sudan. The coalition will bring together HRDs representing organisations or causes, who will ensure collective efforts to address human rights concerns and challenges in Sudan. We look forward to working with the coalition. We have no doubt they can play a key role in building an open civic and democratic space in Sudan.

Lastly, but most importantly, this report is dedicated to all Sudanese HRDs, and specifically WHRDs, who continue to fight for a better country for their people. We wish to recognise and appreciate the work of our Sudanese colleagues who shaped and contributed to this report, including Majid Maali and the late Malaz Wagjalla, assisted by Marine Alneel, without whom this report would not have been possible.

May Malaz rest in peace and may her contributions be recognised and honoured.

Yours sincerely,
Hassan Shire

¹² AfricanDefenders, "North Africa & Pan-African Shield Awards 2019: Sudan Women Protest," available at: <https://africandefenders.org/sudan-women-protest/> (accessed 7 September 2021).



ABOUT DEFENDDEFENDERS

Established in 2005, DefendDefenders (East and Horn of Africa Human Rights Defenders Project) seeks to strengthen the work of HRDs throughout the sub-region, by enhancing the safety and capacity of human rights defenders in the region for greater resilience and effective fulfilment of their mandates. DefendDefenders focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (with Somaliland), South Sudan, Sudan, Tanzania, and Uganda.

DefendDefenders is the secretariat of the East and Horn of Africa Human Rights Defenders Network, which represents thousands of members consisting of individual HRDs, human rights organisations, and national coalitions that envision a sub-region in which the human rights of every citizen as stipulated in the Universal Declaration of Human Rights are respected and upheld.

DefendDefenders is the secretariat of AfricanDefenders (the Pan-African Human Rights Defenders Network). AfricanDefenders is an umbrella network of five African sub-regional networks dedicated to the promotion and protection of human rights defenders across the continent. Those are: the North Africa Human Rights Defenders Network (hosted by the Cairo Institute for Human Rights Studies in Tunis, Tunisia), the West African Human Rights Defenders Network (Lomé, Togo), the Southern Africa Human Rights Defenders Network (hosted by the International Commission of Jurists in Johannesburg, South Africa), the Central Africa Human Rights Defenders Network (Douala, Cameroon), and the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) (hosted by DefendDefenders in Kampala, Uganda).

AfricanDefenders leads the continental Ubuntu Hub Cities initiative, a city-based relocation programme of HRDs at risk across Africa through its motto: “Safe but not Silent.” Ensuring the physical and mental well-being of HRDs during their relocation period, while enabling them to continue their work.

EXECUTIVE SUMMARY

The Sudanese Revolution began with spontaneous street protests that started in Damazin, Blue Nile state, mid-December 2018, and spread to Atbara, where hundreds of people set fire to the local headquarters of the ruling party, and other Sudanese cities.¹³ It has since resulted in political and institutional changes that many would not have imagined a few years ago. These changes are now threatened by the 25 October 2021 military takeover. The protests, which spread quickly throughout the country, began as a way to express discontent about the tripling of the price of bread, due to the removal of state subsidies, earlier in January and February 2018.¹⁴ However, the focus quickly shifted to broader concerns and grievances that plagued Sudan for much of President Omar al-Bashir's 30-year dictatorship. During months of massive demonstrations, protesters called for the removal of al-Bashir, an overhaul of his corrupt government, and real change in Sudan. One of the most chanted slogans during the Revolution was:

حرية سلام وعدالة والثورة خيار الشعب
“Freedom, peace, justice ... the Revolution is the choice of the people.”

This was a rallying cry that encouraged various groups from different backgrounds to participate.¹⁵ The protests were diverse, drawing out people from all ages, and many were led by women. Other marginalised groups, such as ethnic minorities, joined demonstrations and were an integral part of the popular movement. The display of unity was recognised and applauded nationally and internationally. Once al-Bashir was ousted on 11 April 2019, there was concern over whether the momentum of the Revolution would continue and bring systemic change. In a power-sharing agreement, Sudan's leaders formed a transitional Sovereign Council (or Sovereignty Council, SC), composed of civilian and military representatives, on 20 August 2019, and appointed a Prime Minister and cabinet shortly thereafter. While the formation of transitional institutions signalled a significant milestone in the Revolution, it showed gender imbalance, with only two women in the 11-member SC and only four women in the 18-member cabinet.¹⁶ This imbalance cast doubts over the inclusiveness of a government that was brought to power by the Revolution but did not fully reflect its diversity. Since then, scepticism has been high in Sudan within civil society and especially among WHRDs, among other factors because they feel that they have been left out of key decision-making spaces and have not been consulted on changes specific to their work.

¹³ Al Jazeera, “‘The Revolution was hijacked’: Inside the conflict in Darfur,” 6 July 2021, <https://www.aljazeera.com/features/2021/7/6/the-revolution-was-hijacked-inside-the-conflict-in-darfur>; Reuters, “State of emergency declared in Sudanese city after party HQ torched,” 19 December 2018, <https://www.reuters.com/article/us-sudan-emergency-idUSKCN1OI2AZ> (accessed 1 September 2021).

¹⁴ By December, the prices of all goods had gone up and scarcity was increasing. Shortage of fuel and bread were noticed all over Sudan, especially outside the capital Khartoum.

¹⁵ Chr. Michelsen Institute, ‘Blog from Sudan: The Sudanese Revolution: A fight for LGBTQI+ Rights?’, 2019, <https://www.cmi.no/publications/7200-blog-from-sudan-the-sudanese-revolution-a-fight-for-lgbtqi-rights> (accessed 7 June 2021).

¹⁶ France 24, “Sudan's new cabinet sworn in as nation transitions to civilian rule,” 8 September 2019, <https://www.france24.com/en/20190908-sudans-new-cabinet-sworn-nation-transitions-civilian-rule> (accessed 7 September 2021). The composition of the SC was modified and its membership increased following the signature of the Juba Peace Agreement (see below).

Meanwhile, the economy has been crippled under political and economic uncertainty, with inflation reaching over 400% as of June 2021.¹⁷ In addition, Sudan has been badly affected by the COVID-19 pandemic and by deadly flash floods, leading the government to declare a state of emergency in September 2020. Despite the peace deal signed on 3 October 2020 in Juba, South Sudan by the Transitional Government and armed groups, ethnic and inter-communal tensions continue to fuel conflict in parts of the country. It has even spread to the relatively stable eastern Sudan, and incidents have been recorded in central Sudan. Despite legal and institutional reforms, the legacy of the al-Bashir dictatorship remained visible in many spheres of life.

The 25 October 2021 military takeover threatens to bring back some of the practices, in particular repression tactics, used under the al-Bashir dictatorship. It is unsurprising that the tensions culminated in a military coup on 25 October 2021, when military forces arrested government ministers and other civilian leaders. The Prime Minister, Abdalla Hamdok, was taken to an undisclosed location and later placed under house arrest. The arrests came amid rising tensions between the military and the Forces for Freedom and Change (FFC). A representative of the civilian bloc, appointed by the FFC, was scheduled to take over the rotating presidency of the SC in November 2021, as per the 2019 power-sharing agreement (see below).

Many HRDs and WHRDs feel that the journey to lasting change has just begun and are aware of the long road ahead but continue to fight and work for their country. This research highlights the determination and resilience that they have displayed prior and throughout the Revolution.

Based on a total of 39 interviews with Sudanese HRDs and WHRDs living in Sudan and the diaspora, this report explores the experience and effects of the Revolution on frontline workers. It illustrates their gains and explains the challenges they continue to face as diverse groups of people. It also presents the needs of the wider HRD community working for change in Sudan. We chose to focus much of the report on the experiences of WHRDs because of their significant role in the Revolution and the gender inequalities that have characterised the transitional period in the aftermath of the ousting of al-Bashir and signing of a power-sharing agreement in 2019.

¹⁷ Reuters, "Sudan's inflation rate rises to 412.75% in June," 18 July 2021, <https://www.reuters.com/article/sudan-inflation-idUSL1N2OU0C6> (accessed 7 September 2021).

This report is based on extensive field and desk research conducted that combined normative approaches and empirical research. The methodology for empirical research relied on qualitative research methods to collect data on trends and issues affecting HRDs and WHRDs, as well as their needs. Between July 2020 and June 2021, 39 interviews were conducted with HRDs and WHRDs living in eight states in Sudan and one diaspora country. The interviews were conducted in Arabic and English by DefendDefenders staff based in Kampala and Khartoum. Through existing networks, researchers identified 39 interviewees, including 25 female, 13 male, and one non-binary individual, who were interviewed in a semi-structured style, for the collection of qualitative data to delve deeper into the issues pertaining to the research. The sampling method led to the identification of HRDs and WHRDs who are working on issues concerning human rights, women's rights, and civic space in Sudan. However, they do not represent the full population of HRDs and WHRDs in Sudan or the Sudanese diaspora.

Throughout this report, "HRD" will be used more generally to include all defenders. The term "WHRD" will be used to refer to female identifying individuals or those working on issues of women's rights and gender, irrespective of their own gender identity. Those who are gender non-binary, and therefore do not identify within traditional categories of male or female, will be considered alongside WHRDs, due to the similarity of difficulties that they face, as a sexual orientation and gender identity (SOGI) minority.

Legal sources were interpreted in a textual manner. The report also makes use of secondary source materials, such as human rights treaty mechanism recommendations and policy documents. Additionally, relevant legal and sociological work, including books, journals, reports, and articles are used to describe the situation, analyse concepts, and illustrate arguments. The names and identifying markers of all interviewees and sources have been deliberately omitted to ensure confidentiality, discretion, and protection from the risk of reprisals. We would like to extend our heartfelt gratitude to all the individuals who shared their experiences and insights for the compilation of this report.

Limitations

There were several key limitations to the research due to the COVID-19 pandemic, which was ongoing throughout the data collection and writing period of this report. In response to the virus outbreak in Uganda, the government closed the only commercial airport in the country from March-October 2020.

¹⁸ See Vienna Convention on the Law of Treaties (adopted 23 May 1969), 1155 UNTS 331. Article 31(1) 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; 31(2), the context shall include: (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty; (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty; Article 32 Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of Article 31, or to determine the meaning when the interpretation according to Article 31: (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable.

This made travel to Sudan impossible for staff based in Uganda during this time, except for repatriation flights arranged by the Sudanese government. In addition, Sudan experienced airport closures, a lockdown, and restrictions on travel to and within the country. This meant that those working on data collection within Sudan also faced restrictions in their movement.

Insecurity hindered the geographical scope of the research. It includes armed conflict and inter-communal violence, protests in urban areas, and extreme flooding. Thus, data collection was not possible in every state in the country but instead focused on areas that could be reached without jeopardising DefendDefenders staff.

Several interviews were conducted remotely, on a voice or video call, rather than in-person as originally planned. Measures were observed to ensure that secure lines and software were used, specifically those with end-to-end encryption, so that respondents could feel as comfortable as possible despite the difficult circumstances. Due to physical distancing measures and restrictions on group meetings all interviews were one-on-one.

Finally, all respondents were informed about the objectives of the research and use of the information gathered. None received any form of financial retribution.

Note regarding language issues

This report is based on interviews conducted in Arabic and English. Translation of transcripts was conducted by native Arabic speakers. Due to the sometimes-technical nature of the responses, some of these were edited for grammar and clarity. However, attention was paid to keeping the original meaning and substance of the respondents' answers, in their context and according to the ordinary meaning to be given to the terms they used.

Scope of the report

The study captured data from eight states: Blue Nile, North Darfur, Central Darfur, Khartoum, Red Sea, North Kordofan, West Kordofan, and South Kordofan. Most interviewed HRDs and WHRDs were living in the capital, Khartoum, and the neighbouring city of Omdurman. The research also engaged HRDs and WHRDs living in exile, in Uganda, which hosts a large Sudanese diaspora.

Lastly, as flagged above, as a final draft for this report was being finalised, the Sudanese military led a coup against the sitting Transitional Government, which led to a fundamental change of circumstances in the environment for HRDs and civil society. Relevant sections were amended to reflect these political and institutional developments.

MAP OF SUDAN WITH STATE BOUNDARIES



Map No. 4458 Rev.2 UNITED NATIONS
March 2012

Department of Field Support
Cartographic Section

From “bread protests” to al-Bashir’s ouster

On 13 December 2018, people in Damazin and across Sudan began to protest the rising costs of living. The first demonstrations were sparked by a government decision, earlier in 2018, to lift a subsidy on bread, which resulted in a tripling of its nominal price, from one to three Sudanese pounds. At the time, some dismissed the demonstrations as “bread protests” but it quickly became apparent that they signaled a growing anger in the country, spurred on by the severe economic crisis and political repression.

The largely peaceful protests were met with a violent state response, with authorities using tear gas, rubber bullets, and live ammunition to disperse protesters. Within a month, hundreds of protesters had been arrested and at least 24 were killed.¹⁹ In the preceding months, the economic situation in Sudan had drastically worsened, with the Sudanese pound falling 85% against the US dollar, and inflation rising to nearly 70%.²⁰ The economy was one of the most serious tests for President Omar al-Bashir in his 30 years of leadership. Al-Bashir had ruled Sudan since 1989, after taking power in a coup that ousted the democratically elected government of Prime Minister al-Sadiq al-Mahdi. Following the December 2018 protests, demonstrations continued for months. On 11 April 2019, Sudanese military announced the removal of al-Bashir from office, dissolved the cabinet and the Parliament, and announced a three-month state of emergency, followed by a two-year transition period. Protests continued after this, however, as civilians called for a swift transition to civilian rule. Protests and sit-ins were violently suppressed, including in Khartoum on 3 June 2019 (see below).

In August 2019, the military and civilian authorities reached a power-sharing agreement installing the SC and a Transitional Government. During the period that led up to al-Bashir’s ouster, government security forces cracked down on protests and limited civic freedoms, including of peaceful assembly, expression, and association. In January 2019, shortly after the protests began, government authorities conducted mass arrests in connection with the demonstrations, including of journalists, opposition leaders, and representatives of civil society.²¹ Government security forces repeatedly used heavy-handed, excessive, and lethal force to quash the protests. Their crackdown on protesters included clear violations of national and international law, such as targeting hospitals and medical workers. On 9 January 2019, security forces attacked Omdurman Hospital, which they believed was treating protesters, by firing live bullets and tear gas inside the hospital’s premises.²²

¹⁹ Al Jazeera, “Doctor and child killed as protests break out across Sudan,” 17 January 2019, <https://www.aljazeera.com/news/2019/1/17/doctor-and-child-killed-as-protests-break-out-across-sudan> (accessed 7 June 2021).

²⁰ Al Jazeera, “Several killed in Sudan as protests over rising prices continue,” 21 December 2018, <https://www.aljazeera.com/news/2018/12/21/several-killed-in-sudan-as-protests-over-rising-prices-continue> (accessed 7 June 2021).

²¹ Al Jazeera, “More than 800 detained in ongoing Sudan protests: Minister,” 7 January 2019, <https://www.aljazeera.com/news/2019/1/7/more-than-800-detained-in-ongoing-sudan-protests-minister> (accessed 7 June 2021).

²² Amnesty International, “Sudan: Security officers pursue injured protestors into hospital,” 10 January 2019, <https://www.amnesty.org/en/latest/news/2019/01/sudan-security-officers-pursue-injured-protestors-into-hospital/>; Human Rights Watch, “A Bloody Day of Protest in Sudan,” 10 January 2019, <https://www.hrw.org/news/2019/01/10/bloody-day-protest-sudan> (accessed 7 June 2021).

On 13 January, another two hospitals were attacked with tear gas and doctors were arrested.²³ Before the protests began, civil society in Sudan had endured decades of repression and restrictions. The National Intelligence and Security Service (NISS: since July 2019 General Intelligence Service) was the government agency most responsible for targeting opposition and independent voices. Its officers were implicated in multiple human rights violations, with total impunity.²⁴ The instruments from which it derived its authority, the National Security Acts of 1999 and 2010, granted it wide-ranging powers of arrest and detention and gave its agents immunity from criminal prosecution.

In a 2010 review of NISS, Amnesty International reported that violations such as arbitrary detention and torture, including of children, systematic harassment of dissidents and their family members, unfair trials, and impunity for violations, were mainstays of the work of the NISS.²⁵ Prior to 2018, there had been multiple instances of government security forces, including NISS agents, targeting protesters and using live ammunition and other weapons to disperse crowds.²⁶ When protests started in December 2018, authorities restricted reporting on the demonstrations and violations committed in relation to these demonstrations. Security forces targeted journalists and media workers. In mid-January 2019, less than one month after protests began, press freedom watchdog organisations reported more than 90 press freedom violations, including 62 arrests and 21 seizures of newspaper.²⁷ At the time, Sudan ranked 174th out of 180 countries in the World Press Freedom Index.²⁸ The Sudanese government also sought to repress protests in other ways. On 24 February 2019, a presidential decree was issued banning unauthorised demonstrations.²⁹ The same day, universities in Khartoum and Omdurman were raided by security forces who beat students in retaliation for their involvement in peaceful protests.³⁰

During mass demonstrations outside the military headquarters in Khartoum between 6-11 April 2019, security forces attacked demonstrators. There were reports of military personnel sheltering protesters in the headquarters, indicating sympathies with protesters. On 11 April 2019, al-Bashir was removed as President of Sudan and placed under house arrest, before being transferred to prison on 17 April.³¹

²³ Amnesty International, "Sudan: Security officers pursue injured protestors into hospital," 10 January 2019, <https://www.amnesty.org/en/latest/news/2019/01/sudan-security-officers-pursue-injured-protestors-into-hospital/>; Human Rights Watch, "A Bloody Day of Protest in Sudan," 10 January 2019, <https://www.hrw.org/news/2019/01/10/bloody-day-protest-sudan> (accessed 7 June 2021).

²⁴ Sudan Tribune, "Sudan Unrest: security apparatus repeats attacks on hospitals, arrests doctors," 14 January 2019, https://www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=66913 (accessed 7 June 2021).

²⁵ Amnesty International, "Sudanese National Intelligence Service empowered to violate human rights," 19 March 2015, <https://www.amnesty.org/en/latest/campaigns/2015/03/sudanese-national-intelligence-service-empowered-to-violate-human-rights/> (accessed 7 June 2021).

²⁶ Amnesty International, Agents of Fear: The National Security Service in Sudan, 2010 Amnesty International, London, <https://www.amnesty.org/en/documents/AFR54/010/2010/en/> (accessed 7 June 2021).

²⁷ African Centre for Justice and Peace Studies, "Deadly force used to disperse protest against Sudanese President at Darfur IDP camp", 28 September 2017, <http://www.acjps.org/deadly-force-used-to-disperse-protest-against-sudanese-president-at-darfur-idp-camp/> (accessed 7 June 2021).

²⁸ Reporters without Borders, "Sudan's NISS steps up harassment of media again," 15 January 2019, <https://rsf.org/en/news/sudans-niss-steps-harassment-media-again> (accessed 7 June 2021).

²⁹ Reporters without Borders, 2018 World Press Freedom Index, <https://rsf.org/en/ranking/2018> (accessed 7 June 2021).

³⁰ Bloomberg, "Sudan's Leader Issues Decrees to Curb Protests, Black Market," 26 February 2019, <https://www.bloomberg.com/news/articles/2019-02-26/sudan-s-al-bashir-issues-decrees-to-curb-protests-black-market> (accessed 7 June 2021).

³¹ BBC, "Sudan protests: Inside the sit-in at army HQ," 9 April 2019, <https://www.bbc.com/news/world-africa-47869171> (accessed 7 June 2021).

Shortly after, talks commenced between civilian and protest movement leaders and the military, namely between the head of a newly formed TMC, Abdel Fattah al-Burhan,³² and the representative body of the civilian opposition and protest movement, the FFC.³² The FFC is the coalition that brings together the SPA, civic groups, and political parties that are signatories to the Declaration on Freedom and Change of January 2019.³³

Demands for civilian rule

During April and May 2019, other key developments paved the way for the transitional period. On 14 April, authorities announced that a civilian Prime Minister would be appointed and that government ministries would be run by civilians, except for the Ministries of defense and Interior. On 18 April, the largest protests since al-Bashir was removed called for the TMC to hand over power to civilians.³⁴ Despite statements from TMC leaders promising civilian rule, tensions continued to rise between the de facto military leaders and civilian protesters.

On 30 May, Al Jazeera reported that Sudanese authorities had revoked its right to broadcast, implying a worrying step backwards in allowing international coverage of the Revolution.³⁵ The news triggered further protests amid concerns that the TMC were acting to silence critics.

On 3 June 2019, a sit-in protest outside the military headquarters in Khartoum was violently dispersed by Sudan's security forces, including the Rapid Support Forces (RSF), a militia composed of former "Janjaweed" fighters and mercenaries, the NISS, and other armed elements. The forces attacked the sit-in in the middle of the night, while many were asleep or sheltering from rain. They used live ammunition and killed at least 120 people, reportedly raped at least 70, and injured hundreds more, in what has since become known as the Khartoum Massacre.³⁶ The horrific event³⁷ was followed by days of further arrests and detentions of activists.

On 6 June 2019, the African Union (AU) suspended Sudan from the body's activities until a civilian-led transitional authority was established.³⁸

³² CBC, "Sudan replaces military leader linked to genocide, rejects extraditing ex-president," 12 April 2019, <https://www.cbc.ca/news/world/sudan-demonstrators-civilian-government-1.5095171> (accessed 7 June 2021).

³³ Reem Abbas, "In My Country, a Third Dictator Will Fall—With Your Help," Yes Magazine, 29 June 2019, <https://www.yesmagazine.org/opinion/2019/06/29/sudan-protests-dictator-democracy> (accessed 31 August 2021).

³⁴ The Guardian, "Sudan: huge crowds call for civilian rule in biggest protest since Bashir ousting," 19 April 2019, <https://www.theguardian.com/world/2019/apr/19/sudan-huge-crowds-call-for-civilian-rule-in-biggest-protest-since-bashir-ousting> (accessed 7 June 2021).

³⁵ South China Morning Post, "Sudan authorities shut down Al Jazeera office and ban journalists from reporting as protests continue," 31 May 2019, <https://www.scmp.com/news/world/africa/article/3012626/sudan-authorities-shut-down-al-jazeera-office-and-ban-journalists> (accessed 7 June 2021).

³⁶ The Guardian, "Sudanese protesters demand justice following mass killings," 13 July 2019, <https://www.theguardian.com/world/2019/jul/13/sudanese-protesters-demand-justice-after-mass-killings> (accessed 7 June 2021).

³⁷ A full account is available at: 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 7 September 2021).

³⁸ African Union, "Sudan suspended from the African Union," 07 June 2019, <https://au.int/en/articles/sudan-suspended-african-union> (accessed 7 June 2021).

Protests were limited in the aftermath of the massacre due to heavy militarisation of the capital, targeted and random shooting, and an internet shutdown that made it difficult for protesters to connect and mobilise. Significant protests resumed around late June. They continued, to some extent, in July and August.

Power-sharing

On 5 July 2019, under intense international pressure (and following an African Union-supported mediation by Ethiopian Prime Minister Abiy Ahmed), TMC and FFC representatives agreed to a power-sharing deal, which envisaged a 39-month transition period led by a SC and a presidency that would rotate between TMC and FFC. This period would be followed by elections. The deal also addressed the Khartoum Massacre by calling for an investigation into it, and other instances of violence. In addition, it provided for a six-month timeframe to try and reach a peace agreement with all armed rebel groups in the country, including Blue Nile, Darfur, and South Kordofan.

Despite these positive political developments, on the ground, human rights violations continued during July. On 29 July, security forces shot dead at least six protesters, including four school children, when breaking up student protests in the city of El-Obeid.³⁹

On 4 August 2019, TMC and FFC representatives signed a Draft Constitutional Document (also known as Constitutional Declaration, or Constitutional Charter), establishing a Sovereign Council composed of five civilian members, five military members, and an additional member acceptable to both sides, to lead Sudan for a 39-month transition period, before general elections. On 20 August 2019, the TMC was dissolved, and the SC appointed, shortly followed by the appointment of a Civilian-Led Transitional Government in September, with Abdalla Hamdok as Prime Minister.⁴⁰ The SC and cabinet formed the new, transitional executive branch. The African Union (AU) lifted the three-month ban on Sudan on 7 September 2019.⁴¹ The Constitutional Document stipulated the division of power between the TMC and the FFC. Chapter 3, Article 9(1) stated that the bodies of the government consist of:

- (1) The Sovereign[ty] Council, which is [collectively] the head of state and symbol of its sovereignty and unity;
- (2) The Cabinet, which is the supreme, executive authority of the state;
- (3) The Legislative Council, which is the authority responsible for legislation and oversight over the executive's performance.

³⁹ African Centre for Justice and Peace Studies (ACJPS), "North Kordofan: Urgent call to investigate the killing of six peaceful protesters including 3 minors in El Obeid," 2 August 2019, <https://www.acjps.org/north-kordofan-urgent-call-toinvestigate-the-killing-of-six-peaceful-protesters-including-3-minors-in-el-obeid/> (accessed 25 June 2021).

⁴⁰ BBC, "Sudan transition: Abdalla Hamdok appointed new prime minister," 22 August 2019, <https://www.bbc.com/news/world-africa-49425702> (accessed 7 June 2021).

⁴¹ Al Jazeera, "African Union lifts suspension of Sudan," 7 September 2019, <https://www.aljazeera.com/news/2019/9/7/african-union-lifts-suspension-of-sudan> (accessed 7 June 2021).

Chapter 4, Article 12 described the competencies and powers of the SC, which included powers to confirm appointments within the executive, legislative, and judicial branches of government. The SC was to validate and endorse laws passed by the Transitional Legislative Council and had the ability, in some cases, to return the law for further deliberation.⁴²

Transitional arrangements

The Transitional Government was led by the Prime Minister and (initially) no more than 20 ministers, who were chosen from a list of candidates drawn up by the FFC. Chapter 5, Article 16 detailed the competencies and powers of the cabinet, which included the right to expedite draft laws, management of the civil service, the ability to form independent national commissions, and supervision of law enforcement. The Transitional Legislative Council was to be an independent legislative authority, which could include upwards of 300 members. Chapter 7, Article 24(2) stated that the authority should include at least 40% women, and Article 24(3) states that 67% of members should be selected by FFC and 33% selected by forces who did not sign the Freedom and Change Declaration.

The Transitional Legislative Council was to have the power to inter alia enact laws and legislation; oversee the cabinet as an accountability mechanism; and ratify bilateral, regional, and international agreements and treaties.

At the time of writing, and as of 25 October 2021, the Legislative Council had not yet been formed. In its absence, the Ministry of Justice had been responsible for drafting new laws and legal reforms, which were shared with the Prime Minister for input. The final drafts of laws were discussed in meetings with the cabinet and SC (“Joint Council”),⁴³ to approve and endorse.

Peace talks

After its appointment, the Transitional Government prioritised peace by engaging in talks with rebel groups. On 3 October 2020, the government and representatives of several armed groups⁴⁴ signed the Juba Agreement for Peace in Sudan (Juba Peace Agreement).

⁴² Constitutional Document, Chapter 4, Article 11(l).

⁴³ The Joint Council refers to the joint meeting of the SC and the Council of Ministers, acting as alternative legislative council until the formation of the transitional legislative council (United Nations General Assembly, “Report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan,” UN Doc. A/HRC/48/46, 27 July 2021, para. 14).

⁴⁴ Al Jazeera, “Sudan and main rebel group kick off peace talks in Juba,” 26 May 2021, <https://www.aljazeera.com/news/2021/5/26/sudan-and-main-rebel-group-kick-off-peace-talks-in-juba> (accessed 7 June 2021).

The Agreement extended the transition period and made several changes to institutional arrangements, having been granted supremacy over the Constitutional Document in Article 24.⁴⁵ Article 4 provides that “parties of the peace process signatory to this agreement would be represented on the current transitional Sovereign Council by three (3) members.” Article 5 stipulates that 25% of the Council of Ministers will be people representing the parties signatory to the agreement. Additionally, Article 6 provides that 25% of members of the Transitional Legislative Council will be reserved for members of rebel factions. On 5 February 2021, when three members from the rebel groups were added to the SC, bringing the membership to 14 (five military, six civilian (including one chosen jointly with the military), and three from rebel groups).

Advancements and ongoing challenges

Despite human rights advancements and political changes, authorities continued to use violent dispersal tactics in some cases.⁴⁶ One clear improvement was press and media freedom. While Sudan dropped to the 175th place in Reporters Without Borders’ 2019 World Press Freedom Index, because of the Khartoum massacre, internet shutdowns, and the revoking of Al Jazeera’s license, by 2020, Sudan ranked 159th. However, a partial internet shutdown was reported in the aftermath of the 25 October 2021 military coup. Service providers reported significant disruptions to both fixed-line and mobile internet connections across Sudan.⁴⁷ During the drafting of this report, attacks from armed groups continued in Darfur, South Kordofan, and other conflict-affected areas. Inter-communal violence increased in the eastern region. Across Darfur, at least 1.5 million people remain displaced. Across Sudan, two million people remain internally displaced persons (IDPs).⁴⁸

In early 2021, the SPA warned of increasing insecurity in North Darfur, and civilians were killed in clashes between armed men and RSF forces in May.⁴⁹ Serious fighting also occurred near Thabit, south of Tawila, between Arab militia and Zaghawa communities over land. In South Kordofan, there were five days of continuing inter-communal clashes in April 2021. Dozens of civilians were killed.⁵⁰

⁴⁵ Sudan, Sudan Peace Agreement, signed in Juba on 3 October 2020, <https://constitutionnet.org/vl/item/sudan-peace-agreement> (accessed 7 June 2021). Article 24(1): The Parties agree on including the signed peace agreements in the Constitutional Document and in the event of a conflict, the Constitutional Document shall be amended to remedy such conflict.

⁴⁶ On 12 March 2021, two protesters were shot and killed by security forces while attending a demonstration in Khartoum. Yahoo! News, “Sudan forces disperse protest in Khartoum; 2 killed,” 12 May 2021, <https://news.yahoo.com/group-sudan-forces-disperse-protest> (accessed 8 June 2021).

⁴⁷ DW, “Armed Coup underway in Sudan with government ministers arrested by military group” 25 October 2021, <https://www.dw.com/en/armed-coup-underway-in-sudan-with-government-ministers-arrested-by-military-group/a-59604684> (accessed 25 October 2021).

⁴⁸ International Organization for Migration, “Sudan — Mobility Tracking Round 1 (July 2020),” 7 July 2020, <https://displacement.iom.int/reports/sudan-%E2%80%94-mobility-tracking-round-1-july-2020>; United Nations High Commissioner for Refugees (UNHCR), “Fact Sheet: Sudan; As of 24 February 2020,” available at: <https://reporting.unhcr.org/sites/default/files/UNHCR%20Sudan%20Fact%20sheet%20-%20February%202020.pdf> (accessed 1 September 2021).

⁴⁹ Dabanga Sudan, “‘Resurgence of violence’ in North Darfur’s Saraf Omra,” 6 May 2021, <https://www.dabangasudan.org/en/all-news/article/resurgence-of-violence-in-north-darfur-s-saraf-omra> (accessed 7 June 2021).

⁵⁰ Dabanga Sudan, “South Kordofan violence resurfaces as dozens are killed or wounded in tribal clashes,” 29 April 2021, <https://www.dabangasudan.org/en/all-news/article/south-kordofan-violence-resurfaces-as-dozens-are-killed-or-wounded-in-tribal-clashes> (accessed 7 June 2021).

Inter-communal clashes were also reported in West Darfur, where three days of violence in early April 2021 saw at least 50 people killed and over 100 injured.⁵¹ Throughout Darfur, the Sudan Liberation Army (-Abdul Wahid faction) continued to actively recruit and train rebel fighters.⁵²

Conflict and war in Sudan: an overview

Since Sudan gained independence in 1956, there has been an intermittent civil war. The First Sudanese Civil War took place from 1955 to 1972. The Second Sudanese Civil War was largely a continuation of the first, taking place from 1983 to 2005 – making it one of the longest internal conflicts on record. Both conflicts centred around demands for representation and more regional autonomy from the southern region of Sudan. They were also characterised by numerous human rights violations, crimes against humanity, war crimes, mass displacement, and one of the highest civilian death tolls of any war.⁵³ After al-Bashir took power in 1989, repression against the southern region intensified, as the central government in Khartoum sought to Arabise and Islamise the largely non-Arab, non-Muslim south.

In 1983, the southern rebel Sudan People's Liberation Movement/Army (SPLM/A) was formed with the aim of establishing an autonomous southern Sudan. Throughout the late 1980s the SPLM/A were in control of large areas of Equatoria, Bahr al Ghazal, and Upper Nile provinces, and operated in southern parts of Darfur, Kordofan, and Blue Nile. In the western region of Darfur, in northern Sudan, other rebel movements emerged in the early 2000s. These included the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM).⁵⁴

In response, the central government in Khartoum armed Arab communities to form the so-called "Janjaweed" militias.⁵⁵ Years of intense conflict followed and in 2009 the International Criminal Court (ICC) had indicted al-Bashir and other officials for several counts of crimes against humanity and genocide. On 9 January 2005, the Comprehensive Peace Agreement (CPA) was signed, ushering in a six-year transitional period ending in a southern referendum on self-rule. The referendum took place in January 2011 and demonstrated an overwhelming support for independence.

⁵¹ Voice of America, "Tribal Clashes Kill More Than 50 in Sudan's West Darfur State," 6 April 2021, <https://www.voanews.com/africa/tribal-clashes-kill-more-50-sudans-west-darfur-state> (accessed 7 June 2021).

⁵² The New Humanitarian, "In Darfur's rebel-held mountains, the war is far from over," 21 April 2021, <https://www.thenewhumanitarian.org/news-feature/2021/4/21/inside-darfurs-rebel-held-mountains> (accessed 7 June 2021).

⁵³ US Committee for Refugees, "Crisis in Sudan," April 2001, <https://web.archive.org/web/20041210024759/http://www.refugees.org/news/crisis/sudan.htm> (accessed 28 June 2021).

⁵⁴ Small Arms Survey Sudan, "Justice and Equality Movement (JEM)," <http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/sudan/darfur/armed-groups/opposition/HSBA-Armed-Groups-JEM.pdf> (accessed 28 June 2021).

⁵⁵ Julie Flint, "Beyond 'Janjaweed': Understanding the Militias of Darfur," June 2009, <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP-17-Beyond-Janjaweed.pdf> (accessed 28 June 2021).

The south seceded and became the independent Republic of South Sudan on 9 July 2011. States bordering it to the north, including the disputed territory of Abyei and the so-called “two areas” of South Kordofan and Blue Nile, where SPLM/A had recruited from local populations, remained part of Sudan.⁵⁶ In these two states, shortly after South Sudan’s independence, conflict flared up between the government of Sudan and the local rebel movement, renamed SPLM/A-North.⁵⁷

Similarly, in Darfur, armed conflict, attacks on civilians, and periods of low-level unrest continued from 2005 until the time of writing.⁵⁸

Sudan’s post-Bashir transitional period has been marked by uncertainty. The political changes brought by peace deals, shifting alliances, the lack of centralised decision-making structures, the COVID-19 pandemic, and natural disasters, made it challenging to predict what the situation would look like from month to month. The 25 October 2021 military takeover materialised the fears and risks observers had identified.

This research aims to illustrate the situation for HRDs, with a focus on WHRDs, and how the Revolution has shaped them and their work. The research forms a snapshot of the current situation.

Against this background, the key findings of the research are presented below. We begin with an overview of the applicable legal framework.

⁵⁶ The New Humanitarian, “The Nuba Mountains - straddling the north-south divide,” 12 November 2009, <https://www.thenewhumanitarian.org/report/86994/sudan-nuba-mountains-straddling-north-south-divide> (accessed 28 June 2021).

⁵⁷ Peace Insight, “Sudan,” <https://www.peaceinsight.org/en/locations/sudan/?location=sudan&theme> (accessed 28 June 2021).

⁵⁸ ACJPS, Darfur conflict archive, <https://www.acjps.org/?s=darfur+conflict> (accessed 28 June 2021).

THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR HRDS AND WHRDS IN SUDAN

International and regional framework

Definitions

An HRD is anyone who individually, or in association with others, promotes or strives for the protection and realisation of human rights and fundamental freedoms at the national, regional, or international levels, using peaceful means.⁵⁹ WHRDs are defined as women who defend human rights, or an individual of any gender, who specifically defends the rights of women, or gender issues more generally.⁶⁰ This broad definition allows for the inclusion of not only persons who identify as women, but individuals of all gender identities and expressions who support and defend women's and girls' rights and sexual and gender minorities.

Civic space is the environment that enables civil society and citizens to operate freely and exercise their human rights and fundamental freedoms. The work of HRDs is directly affected by the three main civic space rights: freedom of association, freedom of peaceful assembly, and freedom of opinion and expression. Other rights can be included in the expression "civic space": the right to privacy, the right to freedom of thought, conscience, religion or belief, the right to participation in public affairs, and the cross-cutting right to freedom from discrimination.

Rights and freedoms

Freedom of association encompasses the right to join or leave a group, and for that group to take collective action, for example a union or activist organisation. It is enshrined in Articles 20 and 23(4) of the Universal Declaration of Human Rights (UDHR);⁶¹ Article 22 of the International Covenant on Civil and Political Rights (ICCPR);⁶² Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁶³ and Article 10 of the African Charter on Human and Peoples' Rights (the Banjul Charter).⁶⁴ Sudan is a party to these instruments. Freedom of peaceful assembly is the right to come together to collectively express, promote, pursue, and defend ideas, for example through protest, in a peaceful manner. It is enshrined in Article 20 of the UDHR; Article 21 of the ICCPR; and Article 11 of the Banjul Charter.

⁵⁹ United Nations Special Rapporteur on the situation of human rights defenders, "Who is a Defender?," <https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx#ftn1> (accessed 8 June 2021).

⁶⁰ Global Fund for Women, "Who are women human rights defenders?," <https://www.globalfundforwomen.org/what-are-women-human-rights-defenders/> (accessed 8 June 2021).

⁶¹ United Nations General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <https://www.refworld.org/docid/3ae6b3712c.html> (accessed 8 June 2021).

⁶² United Nations General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations Treaty Series, vol. 999, p.171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> (accessed 8 June 2021).

⁶³ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> (accessed 8 June 2021).

⁶⁴ Organisation of African Unity (OAU), African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M.58 (1982), available at: <https://www.refworld.org/docid/3ae6b3630.html> (accessed 8 June 2021).

Lastly, freedom of opinion and expression ensures that an individual can hold opinions without interference, have access to, and seek, receive, and impart ideas and opinions without fear of retaliation, censorship, or legal sanction. It includes any kind of imparting, receiving, or seeking information, using any medium. It is enshrined in Article 19 of the UDHR; Article 19 of the ICCPR; Article 9 of the Banjul Charter; and Article 27 of the African Charter on Democracy, Elections and Governance.

International and regional protection for HRDs and WHRDs

Although civic space rights are guaranteed by law, HRDs including WHRDs often work in difficult conditions and can face physical, verbal, and online threats because of their work. These threats can be exacerbated depending on the country or region they are working in and the thematic issues they are focused on.⁶⁵ In recognition of the specific challenges and sometimes deadly threats that come with the work of HRDs, the UN Declaration on Human Rights Defenders contains principles and provisions that are based on universally accepted, and binding, human rights standards.⁶⁶ The Declaration provides protections to defenders, lists the duties of states, and emphasises the responsibility of society and communities more generally. On the African continent, the African Commission on Human and Peoples' Rights (ACHPR) has so far adopted four resolutions specific to HRDs – two concerning the role and mandate of a Special Rapporteur on human rights defenders in Africa,⁶⁷ and two concerning protection and recognition of HRDs.⁶⁸

In 1999, the ACHPR established the mandate of the Special Rapporteur on the rights of women in Africa to serve as a focal point for the protection and promotion of women's rights in Africa.⁶⁹ UN special procedures (independent experts appointed by the HRC to report on thematic issues or countries) include a Special Rapporteur on violence against women, its causes and consequences and a Working Group on discrimination against women and girls. While the Declaration and ACHPR resolutions mark important milestones for defenders and civil society, these documents do not specifically mention WHRDs. Hence, they do not recognise the specific issues that women and persons engaged in SOGI work can face. Although the UN Declaration does not refer specifically to WHRDs, the Commentary to the UN Declaration, published in 2011,⁷⁰ acknowledges from the outset that WHRDs are at greater risk of certain forms of violence and other violations, than male HRDs.

⁶⁵ Human Rights Council, "Situation of women human rights defenders: Report of the Special Rapporteur on the situation of human rights defenders," UN Doc. A/HRC/40/60, 10 January 2019.

⁶⁶ UN General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms : resolution / adopted by the General Assembly, 8 March 1999, A/RES/53/144, available at: <https://www.refworld.org/docid/3b00f54c14.html> (accessed 8 June 2021).

⁶⁷ Resolution on the Protection of Human Rights Defenders In Africa - ACHPR/Res.69(XXXV)03 and 273 Resolution on Extending the Scope of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa - ACHPR/Res.273(LV) 2014.

⁶⁸ 119 Resolution on the Situation of Human Rights Defenders in Africa - ACHPR/Res.119(XXXII)07 and 196 Resolution on Human Rights Defenders in Africa - ACHPR/Res.196(L) 2011.

⁶⁹ <https://www.achpr.org/specialmechanisms/detail?id=6>

⁷⁰ "Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," July 2011, <https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf> (accessed 8 June 2021).

In addition, the 2016 ACHPR Resolution 336 on Measures to Protect and Promote the Work of Women Human Rights Defenders, calls for states to protect the rights of WHRDs and to ensure that they are not discriminated against.⁷¹ Although not legally binding, the Declaration, Commentary, and ACHPR resolutions are the most specific international human rights documents relating to HRDs and WHRDs.⁷² The Report of the Study on the Situation of Women Human Rights Defenders in Africa, by the ACHPR, is also an important milestone for WHRDs in Africa. The report, while not legally binding, presents persuasive findings of a study undertaken by the ACHPR to assess the extent and degree of difficulties faced by WHRDs. The report highlights that WHRDs face institutionalised discrimination, including inequality and structural violence, as well as many other threats and attacks from state and non-state actors.

Most international human rights instruments do not contain a gender dimension in relation to civic space rights, nor do they provide special considerations for women.⁷³ However, in 1979, the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁷⁴ In the decades that followed, continental and regional bodies drafted instruments, or specific articles, dedicated to guaranteeing comprehensive rights for women. Article 18(3) of the Banjul Charter requires states to “ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.” In 2005, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol)⁷⁵ came into effect.

Both the CEDAW Convention and the Maputo Protocol contain provisions that are particularly relevant for WHRDs, as women and as HRDs. The instruments oblige states to guarantee women basic human rights, fundamental freedoms, and elimination of prejudice – thus working towards the full inclusion of women in public life. Despite the relative acceptance of both documents (the CEDAW has been ratified by 189 states, the Maputo Protocol by 42 out of 55), Sudan is not yet fully a party to either, although as of writing it has signed both. Sudan has signed, but not yet ratified, the Maputo Protocol. On 28 April 2021, Sudan’s cabinet approved the ratification of the CEDAW, after years of advocacy by women’s and rights groups in Sudan.⁷⁶ However, the cabinet also made reservations to Articles 2, 16 and 29(1).

⁷¹ African Commission on Human and Peoples’ Rights, 336 Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders, ACHPR/Res.336(EXT.OS/XIX)2016, <https://www.achpr.org/sessions/resolutions?id=252> (accessed 8 June 2021).

⁷² ACHPR, “Report of the Study on the Situation of Women Human Rights Defenders in Africa,” 2019, http://www.achpr.org/files/special-mechanisms/human-rights-defenders/report_of_the_study_on_the_situation_of_women_human_rights_defenders_in_africa.pdf (accessed 28 June 2021).

⁷³ This has historically caused their effectiveness in ensuring human rights for all, to be questioned. This criticism was one of the driving forces behind calls from the feminist movement in the 1970s to expand the international legal framework, so it specifically takes into account the situation and rights of women.

⁷⁴ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> (accessed 8 June 2021).

⁷⁵ African Union, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 11 July 2003, available at: <https://www.refworld.org/docid/3f4b139d4.html> (accessed 8 June 2021).

⁷⁶ Sudan Tribune, “Sudan’s cabinet approves CEDAW ratification,” 28 April 2021, <https://www.sudantribune.com/spip.php?article69497> (accessed 8 June 2021).

Article 2 obliges states to “condemn discrimination against women in all its forms” and to “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation.” Article 16 ensures that states “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.”⁷⁷ Finally, Article 29(1) provides for arbitration in any dispute between state parties concerning the convention. Following the announcement, several WHRDs and women’s groups criticised the decision and questioned whether the ratification of the CEDAW, particularly with such concerning reservations, would have any real effect on the ground.⁷⁸

Other international protections

In February 2021, Sudan’s Transitional Government formally ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention for the Protection of All Persons from Enforced Disappearance.⁷⁹

Considering that Sudan has consistently ranked among the lowest in the world in terms of gender equality⁸⁰ and has a long history of torture and disappearance of dissidents, mere ratification of the conventions will not be enough. To make the treaties take effect in the domestic legal order, the government will need to reform existing laws and policies and take steps to ensure practices change at every level and throughout the country. Holding all perpetrators criminally accountable, irrespective of their rank or social status, will also be key to long-lasting change.

Sudan’s positive international engagement

In addition to these domestic changes, the dissolved Transitional Government’s increased engagement with the international community and human rights mechanisms was a step in the right direction.

Sudan’s third Universal Periodic Review (UPR) was scheduled to take place during the 39th session of the UPR Working Group, on 3 November 2021, to provide an opportunity for the state to fully resume its good-faith engagement with the HRC and foster stronger acceptance of human rights, as well as make pledges and commitments that will lead to domestic changes. However, due to the events of 25 October 2021, the review was postponed to a later session.

⁷⁷ Full text available at: “Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979,” <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

⁷⁸ Sudan News Agency, “SWU welcomes ratification of CEDAW and rejects reservations,” 30 April 2021, <https://suna-sd.net/read?id=711131> (accessed 8 June 2021).

⁷⁹ Voice of America, “Sudan Ratifies UN Conventions Against Torture and Enforced Disappearances,” 24 February 2021, <https://www.voanews.com/africa/sudan-ratifies-un-conventions-against-torture-and-enforced-disappearances> (accessed 8 June 2021).

⁸⁰ UNDP, “Human Development Records: Sudan,” <http://www.hdr.undp.org/en/countries/profiles/SDN> (accessed 8 June 2021).

DefendDefenders previously conducted research on engagement patterns at the HRC for countries in the East and Horn of Africa, specifically looking at pledges and commitments, voting records and overall voting patterns on resolutions and amendments related to women and girls.⁸¹ The research found that Sudan has never co-sponsored any resolutions or amendments on violence against women and girls, discrimination against women and girls, nor three out of five components of harmful practices, health, and girls' education. They co-sponsored only one resolution/amendment on child, early and forced marriage and three on female genital mutilation (FGM). Conversely, Sudan sponsored conservative initiatives on "protection of the family" and "defamation of religions."⁸² More positively, it was found that while historically Sudan had not engaged with civil society at the HRC,⁸³ there had been a shift since the Revolution towards increased contact.⁸⁴

Dr. Nasredeen Abdulbari, who participated in DefendDefenders' advocacy activities at the UN, including during the 41st session of the HRC, in July 2019, was in September 2019 appointed Minister of Justice, as part of the Civilian-Led Transitional Government. The same month, for the Council's 42nd session, he visited Geneva again, that time as head of the Sudanese delegation. He later held talks with, and received, a number of human rights defenders and organisations in his office in Khartoum. This contributed to the enhancement of confidence and cooperation between the Sudanese government and civil society. It was hoped that this renewed cooperation with HRDs, and civil society would be fully capitalised on at the 39th UPR session and during regular sessions of the HRC, as civil society members advocated for the continuation of Sudan-related resolutions at the HRC, to ensure continued scrutiny and technical cooperation.

National framework

Although international and continental human rights mechanisms and protection frameworks apply to HRDs and WHRDs in Sudan, there is a significant gap between the law and implementation and policy on the ground. This is due in part to the three decades of al-Bashir's authoritarian rule, when human rights and civic space were systematically suppressed and HRDs targeted.

⁸¹ DefendDefenders, "Making a difference for women and girls? - East and Horn of Africa countries and women's and girls' rights at the UN Human Rights Council," June 2020, <https://defenddefenders.org/wp-content/uploads/2020/06/Making-a-Difference-for-Women-and-Girls-Report-2020.pdf> (accessed 8 June 2021).

⁸² Ibid, p. 23.

⁸³ DefendDefenders, "Sudan blocks civil society participation in UN-led human rights review," 1 April 2016, <https://defenddefenders.org/sudan-blocks-civil-society-participation-un-led-human-rights-review/> (accessed 8 June 2021).

⁸⁴ Ibid, p. 31.

The al-Bashir legacy

In 1998, a new Constitution, drafted following al-Bashir's illegal power grab, entered into force.⁸⁵ The 1998 Constitution confirmed Sharia as the main basis of Sudanese law and created a federal system, splitting the country into 25 states.⁸⁶ There was a “grudging acceptance” of international human rights (for example the right to freedom of association was recognised for trade unions)⁸⁷ but overall, the Constitution marked a downturn for rights in Sudan. During this time, any rights provided for in the Constitution were systematically undermined by restrictive policies and practices, by governmental and security agencies like the NISS.

The Humanitarian Aid Commission

Even before al-Bashir's regime, the Humanitarian Aid Commission (HAC) managed and organised all humanitarian work in Sudan, alongside the Ministry of Humanitarian Affairs. HAC was established in 1985, and its powers were significantly strengthened with the 2006 Voluntary and Humanitarian Work (Organization) Act. For many years, HAC officials would routinely threaten and harass HRDs, non-governmental organisations (NGOs) and civil society actors. The former Minister of State for Humanitarian Affairs, Ahmed Mohammed Haroun, who served from 2006 to 2009, is wanted by the ICC on 42 counts of crimes against humanity and war crimes. Haroun was arrested in April 2019, during the Revolution, and is detained in Sudan, but has not yet faced trial.

⁸⁵ Constitution of the Democratic Republic of the Sudan, 1 July 1988, available at: <https://www.refworld.org/docid/3ae6b4eb14.html> (accessed 8 June 2021).

⁸⁶ “Sudan: The Constitution of 1998,” available at: <https://constitutionnet.org/vl/item/sudan-constitution-1998> (accessed 11 November 2021).

⁸⁷ Shinn, David H (2015), Recent Constitutional Developments, Berry, LaVerle (ed.). Sudan: A country study (5th ed.). Washington, D.C.: Federal Research Division, Library of Congress. p.228

In 2005, an Interim National Constitution⁸⁸ was adopted by the National Assembly and the SPLM/A, following the second Sudanese civil war. The Interim Constitution was based on the 1998 Constitution and the 2005 CPA. It remained in place until officially suspended following the ouster of al-Bashir in April 2019. In southern Sudan, a semi-autonomous region under the peace deal, adopted its own, more detailed, Constitution, which was in place until the country's independence in 2011.

2019 changes

In August 2019, the representatives of the main negotiating groups, the civilian FFC and military TMC, signed a Constitutional Document.⁸⁹ Its 16 Chapters and 70 Articles define the procedures for the transition period and include a “Rights and Freedoms Charter” with human rights provisions, including the core civic space freedoms of expression and of the press in Article 56, and of assembly and association in Article 57. In addition, it affirms gender equality. It affirms “the role of women and their active participation in carrying out the Revolution” and obliges state agencies to “guarantee and promote women’s rights in Sudan” and “combat all forms of discrimination against women.”⁹⁰

Article 48 lists several commitments and obligations concerning women’s rights, including “to protect women’s rights as set forth in international and regional agreements ratified by Sudan.”⁹¹ Article 67(c) commits Sudan to applying UN Security Council Resolution 1325 and the relevant AU resolutions regarding participation of women in peace processes; and (d) confirms that the state will conduct legal reform to guarantee women’s rights. Several Articles of the Constitutional Document were suspended following the 25 October 2021 coup.

Public Order laws

The Public Order regime was a set of morality codes within Sudanese law. The Criminal Act 1991, the Organisation of Prisons and Treatment of Prisoners Act 1992, and the Khartoum Public Order Act 1998 all contained such provisions. These provisions, often vaguely defined and applied with wide discretion, contradicted both the Sudanese Constitution and international human rights law. They were often used to target women and activists, including WHRDs.⁹² The laws were drafted in such a way that they could be applied with a large amount of discretion by police and courts.

⁸⁸ Interim Constitution of Southern Sudan, 2005 [South Sudan], 5 December 2005, available at: <https://www.refworld.org/docid/4ba74c4a2.html> (accessed 8 June 2021).

⁸⁹ Draft Constitutional Document, 4 August 2019, available at: <https://www.refworld.org/docid/5ec7fc374.html> (accessed 8 June 2021).

⁹⁰ Draft Constitutional Document, Chapter 2, Article 7.

⁹¹ Draft Constitutional Document, Chapter 14, Article 48: Women’s rights “(a.) The state shall protect women’s rights as set forth in international and regional agreements ratified by Sudan; (b.) The state shall guarantee to both men and women the equal right to enjoy all civil, political, social, cultural, and economic rights, including the right to equal pay for equal work, and other professional benefits; (c.) The state shall guarantee women’s rights in all fields through positive discrimination; (d.) The state shall work to combat harmful customs and traditions that reduce the dignity and status of women; (e.) The state shall provide free healthcare for motherhood, childhood and pregnant women.”

⁹² See Human Rights Watch, “‘Good Girls Don’t Protest’: Repression and Abuse of Women Human Rights Defenders, Activists, and Protesters in Sudan,” 23 March 2016, <https://www.hrw.org/report/2016/03/23/good-girls-dont-protest/repression-and-abuse-women-human-rights-defenders>

Articles 77 and 78 governed the consumption and sale of alcohol. Articles 145–158 addressed “morality,” criminalising indecent clothing and adultery. Under these laws, women could be arrested for wearing trousers, dancing, selling items on the street, and begging.⁹³ They would be sentenced to public lashing, in violation of the regional and international prohibition on corporal punishment, and fines. In 2016 alone, more than 45,000 complaints were reportedly filed against women under the Public Order laws.⁹⁴ Public order laws were also used to target WHRDs and women who attempted to get involved in politics and other public activities.

Improvements from 2019 to 2021

After committing to carry out legal reforms to improve women’s rights, the Transitional Government spearheaded positive changes. On 13 July 2020, the SC and cabinet approved reforms to the Criminal Law Act,⁹⁵ the Criminal Procedure Act, and the National Security Act. These changes abolished the Public Order laws, allowed for consumption of alcohol by non-Muslims, and removed a mandatory death penalty sentence for apostasy. In addition, the amendments criminalized FGM with a punishment of three years in prison and a fine.⁹⁶

However, the amendments did not go far enough to ensure gender equality under the law.⁹⁷ The offence of sodomy was retained in Article 148(2) of the Criminal Law Act, with the maximum sentence being reduced from death to seven years in prison.⁹⁸ The changes also banned the use of torture and forced confessions, seeking to rid of remnants of the al-Bashir regime.

In February 2021, the Transitional Government concluded a Memorandum of Understanding with the ICC, signaling a renewed willingness to engage with the court after years of hostility.⁹⁹

⁹³ Sudan Democracy First Group, “The Framework of the Public Order Laws in Sudan: Tools for Repression and Totalitarian Domination,” 3 January 2018, <https://democracyfirstgroup.org/the-framework-of-the-public-order-laws-in-sudan-tools-for-repression-and-totalitarian-domination/> (accessed 8 June 2021).

⁹⁴ Dabanga Sudan, “45,000 women prosecuted under Public Order Act Sudan: activists,” 18 April 2017, <https://www.dabangasudan.org/en/all-news/article/45-000-women-prosecuted-under-public-order-act-sudan-activists> (accessed 8 June 2021).

⁹⁵ REDRESS, “Legal and Institutional Reforms in Sudan – Policy Briefing,” March 2021, <https://redress.org/wp-content/uploads/2021/03/Sudan-Legal-and-Institutional-Reforms-Policy-Briefing-English.pdf> (accessed 8 June 2021).

⁹⁶ UNICEF, “Sudan enters new era for girl rights with criminalization of FGM,” 29 April 2020, <https://www.unicef.org/mena/press-releases/sudan-enters-new-era-girl-rights-criminalization-fgm> (accessed 8 June 2021).

⁹⁷ See Jehanne Henry, “Sudan’s Law Reforms a Positive First Step: Problematic Laws, Practices Still a Challenge,” 16 July 2020, <https://www.hrw.org/news/2020/07/16/sudans-law-reforms-positive-first-step> (accessed 8 September 2021).

⁹⁸ Equal Eyes, “Sudan Abolishes Flogging and Death Penalty of Sodomy’s Article, 148 of the Penal Code 1991,” 16 July 2020, <https://equal-eyes.org/database/2020/7/16/sudan-abolishes-flogging-and-death-penalty-of-sodomys-article-148-of-the-penal-code-1991> (accessed 8 June 2021).

⁹⁹ International Criminal Court, “Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda,” 20 October 2020, <https://www.icc-cpi.int/Pages/item.aspx?name=201020-otp-statement-sudan> (accessed 8 June 2021).

The Darfur Situation at the ICC

Although Sudan is not a party to the Rome Statute, the situation in Darfur was referred to the ICC by the UN Security Council (Resolution 1593 (2005)) in 2005, resulting in the ICC's Prosecutor opening an investigation.¹⁰⁰ Since then, the Court opened six cases. One was closed in 2010. One of the suspects, Ali Koshayb, surrendered himself to the ICC in 2020. Three others are in Sudanese detention as of writing. Non-cooperation from Sudan hindered the investigation for years, Following the ouster of al-Bashir, the relationship between the ICC and the now dissolved Transitional Government has moved in a positive direction. In October 2020 and June 2021, the ICC Prosecutor, Fatou Bensouda, travelled to Sudan and met with the Prime Minister, other ministers, and members of the SC.¹⁰¹ The ICC continues to advocate with Sudan to hand over the three suspects it has in custody.¹⁰²

The five cases open at the time of writing are:

- Former President, Omar al-Bashir: charged with five counts of crimes against humanity, two counts of war crimes, three counts of genocide, allegedly committed between 2003 and 2008 in Darfur.¹⁰³ The case remains in the pre-trial stage while al-Bashir is held in custody and tried in Sudan.
- Former Minister of State for the Interior, Ahmad Muhammad Harun: charged with 20 counts of crimes against humanity, 22 counts of war crimes, allegedly committed between 2003 and 2004 in Darfur.¹⁰⁴ The case remains in the pre-trial stage while Haroun is held in custody in Sudan.
- Former Minister of National Defence, Abdel Raheem Muhammad Hussein: charged with seven counts of crimes against humanity, six counts of war crimes, allegedly committed between 2003 and 2004 in Darfur.¹⁰⁵ The case remains in the pre-trial stage while Hussein is held in custody in Sudan.
- Alleged former militia/Janjaweed leader, Ali Muhammad Ali Abd-Al-Rahman "Ali Kushayb": charged with 31 counts of war crimes and crimes against humanity, allegedly committed in Darfur.¹⁰⁶ Abd-Al-Rahman was transferred to ICC custody on 9 June 2020, after voluntarily surrendering himself. Oral submissions from the Prosecutor were heard from 24 – 26 May, and the case is now awaiting the Pre-Trial Chamber's decision whether to confirm the charges or not.

¹⁰⁰ ICC Press Release, "The Prosecutor of the ICC opens investigation in Darfur," 6 June 2005, <https://www.icc-cpi.int/Pages/item.aspx?name=the+prosecutor+of+the+icc+opens+investigation+in+darfur&ln=en> (accessed 28 June 2021).

¹⁰¹ ICC, Statement of the Prosecutor of the ICC, Fatou Bensouda, at a media briefing in Khartoum, Sudan, 20 October 2020, <https://www.icc-cpi.int/Pages/item.aspx?name=201020-otp-statement-sudan> (accessed 28 June 2021).

¹⁰² Arab News, " Visiting ICC prosecutor asks Sudan to hand over Bashir ally accused of Darfur genocide," 02 June 2021, <https://www.arabnews.com/node/1869336/middle-east> (accessed 28 June 2021).

¹⁰³ ICC, Darfur Situation, Omar Hassan Ahmad Al Bashir, <https://www.icc-cpi.int/darfur/albashir> (accessed 28 June 2021).

¹⁰⁴ ICC, Darfur Situation, Ahmad Muhammad Harun, <https://www.icc-cpi.int/darfur/harun> (accessed 28 June 2021).

¹⁰⁵ ICC, Darfur Situation, Abdel Raheem Muhammad Hussein, <https://www.icc-cpi.int/darfur/hussein> (accessed 28 June 2021).

¹⁰⁶ ICC, Darfur Situation, Ali Muhammad Ali Abd-Al-Rahman, <https://www.icc-cpi.int/darfur/abd-al-rahman> (accessed 28 June 2021).

Former Commander-in-Chief of JEM rebel group, Abdallah Banda Abakaer Nourain: three counts of war crimes, allegedly committed in September 2007 in Darfur.¹⁰⁷ Nourain's case was submitted to trial in March 2011, following his involuntary appearance at the court. However, the trial is postponed indefinitely awaiting his arrest – at the time of writing he remains at large.

Lubna Hussein

Former Commander-in-Chief of JEM rebel group, Abdallah Banda Abakaer Nourain: three counts of war crimes, allegedly committed in September 2007 in Darfur. Nourain's case was submitted to trial in March 2011, following his involuntary appearance at the court. However, the trial is postponed indefinitely awaiting his arrest – at the time of writing he remains at large.

In 2009, the prosecution of journalist Lubna Hussein and 12 other women for wearing trousers in public gained international attention and highlighted the Public Order laws on a global level. The women were charged under Article 152 of the Criminal Act, which vaguely prohibited “indecent and immoral acts.” Ten of the women pled guilty and were sentenced to flogging, receiving ten lashes each. Hussein pled not guilty and took her case to trial, attempting to make it a test case for women's rights and the targeted use of the laws against women. She was convicted and given the option to pay a fine or go to jail. She chose jail but a journalists' association paid the fine for her. According to Human Rights Watch, “Hussein's case inspired fellow activists to form the women's rights coalition No to Women's Oppression, whose members, some wearing trousers, protested against the public order laws at Hussein's hearing. More than 40 were reportedly arrested, and at least one beaten by police.”¹⁰⁸ Scores of other women's rights activists were also arrested throughout her trial for protesting her arrest and ill treatment.¹⁰⁹

¹⁰⁷ ICC, Darfur Situation, Abdallah Banda Abakaer Nourain, <https://www.icc-cpi.int/darfur/banda> (accessed 28 June 2021).

¹⁰⁸ Human Rights Watch, “Good Girls Don't Protest,” op. cit. See also Ifex, “Lubna Hussein convicted, ordered to pay US\$200 or go to prison for a month, in infamous trousers trial case,” 10 September 2009, <https://ifex.org/lubna-hussein-convicted-ordered-to-pay-us200-or-go-to-prison-for-a-month-in-infamous-trousers-trial-case/> (accessed 8 June 2021).

¹⁰⁹ WA Today, “Protests at Sudan woman's trouser trial,” 5 August 2009, <https://www.watoday.com.au/world/protests-at-sudan-womans-trouser-trial-20090805-e8sp.html?js-chunk-not-found-refresh=true> (accessed 8 June 2021).

The increased recognition of and engagement with international human rights law and mechanisms was an important step. For decades, traditional, conservatively interpreted Sharia law with severe hudud punishments¹¹⁰ were used in Sudan's legal system; they also informed the Public Order laws.¹¹¹ Therefore, for a long time the social and political life of women was regulated by, and intertwined with, fundamentalist ideology. This has affected women in the public and private spheres and has left a lasting mark on the way that society regards them.

Legal and institutional changes vs. societal attitudes

Many HRDs interviewed for this research drew attention to the fact that society has not liberalised its attitudes towards women since legal reforms were announced, but that the situation had in fact deteriorated – drawing comparisons with post-revolution Egypt.¹¹² The disconnect between the legal reforms and the reality on the ground, has led to criticism of the Ministry of Justice only making reforms only on paper.¹¹³

While it is important to keep in mind the legal frameworks that HRDs operate within, it is vital to listen to the voices of those working on the ground, in understanding the realities of Sudan. The following section of this report aims to highlight these voices, their successes and struggles in their work.

I see that we are going down the path of the situation in Egypt, where if you speak online they might accuse you of offending societal values. - WHRD, Khartoum.

¹¹⁰ "Hadd." In The Oxford Dictionary of Islam., edited by John L. Esposito. Oxford Islamic Studies Online, <http://www.oxfordislamicstudies.com/article/opr/t125/e757> (accessed 8 June 2021).

¹¹¹ Warburg, Gabriel R. "The Sharia in Sudan: Implementation and Repercussions, 1983-1989." Middle East Journal, vol. 44, no. 4, 1990, pp. 624–637. JSTOR, www.jstor.org/stable/4328194 (accessed 8 June 2021).

¹¹² The Africa Report, "Egypt: Women worse off after Arab spring," 12 November 2013, <https://www.theafricareport.com/5093/egypt-women-worse-off-after-arab-spring/> (accessed 8 June 2021).

¹¹³ A WHRD who was interviewed for this research characterised the situation as follows: "the government does not get into confrontations, they just present things on paper that will please the international community, without making any actual changes in Sudan." - Interviewee no.11, February 2021.

WHRDs were instrumental in bringing about the Sudanese Revolution – through their vocal presence in the protest movement, their physical presence and support at demonstrations, and their work in civil society.

However, many WHRDs felt that post-Revolution, their work has not been recognised and that, in some places, the situation for women in public and at home has deteriorated. This section of the report looks at the primary areas of concern for HRDs, and specifically WHRDs, as they work to rebuild Sudan.

Gender considerations are mainstreamed throughout each section, in reflection of the purpose of the research: to better understand the experiences of WHRDs. The analysis will consider discrimination in both the public and private spheres, looking at violations and abuses, including harmful practices in law/policy, and society/family. The definition provided in Article 1 of the CEDAW will be used:

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Women's rights pre-Revolution: brief background

Prior to the Sudanese Revolution in 2018, the situation for HRDs, WHRDs, and women more generally, was oppressive and stifling. Three decades of dictatorship under al-Bashir had solidified widespread discrimination and extreme levels of control over women in public and private spaces. For those working on issues of human rights, there was a long-standing climate of fear, fuelled by enforced disappearances, arbitrary detentions, and torture.¹¹⁴ Much of the repression was targeted against WHRDs and women, in the name of "public morals" and strict interpretations of Islam, which were legally supported by the Public Order laws. In 2008 alone, at least 43,000 public order charges were filed against women in Khartoum.¹¹⁵

¹¹⁴ DefendDefenders et al., "Letter from 33 NGOs and individuals regarding the human rights situation in Sudan in advance of the 33rd session of the UN Human Rights Council," 7 September 2016, <https://defenddefenders.org/letter-33-ngos-individuals-regarding-human-rights-situation-sudan-advance-33rd-session-un-human-rights-council/> (accessed 8 June 2021).

¹¹⁵ HRW, "Sudan: End Lashing, Reform Public Order Rules," 15 December 2010, <https://www.hrw.org/node/241400/printable/print> (accessed 8 June 2021).

Despite this climate, women were present in politics and civil society in Sudan – long before, and during al-Bashir’s rule. In 1952 – during Sudan’s independence struggle, the Sudanese Women’s Union (SWU) was formed and quickly became one of Africa’s biggest post-independence women’s rights organisations. The SWU’s work was characterised by their regular challenges of the Islamic government, and their advocacy for women’s immediate and community needs to be met.¹¹⁶ During the 1960s and 70s, the union saw significant gains, including the right to vote extended to all women in 1964. In 1965, Fatima Ahmed Ibrahim was elected as the first woman member of parliament. The work of the SWU and other women’s rights activists and organisations led to marked improvements in the 1973 Constitution in gender equality and family law.

Following al-Bashir taking power in 1989 and the subsequent shift to the conservative right, progressive movements in Sudan came under threat and the SWU was officially dissolved. Despite this, the group continued to work unofficially and from exile.¹¹⁷ SWU, and others that had formed in the same spaces – including the No to Women’s Oppression Initiative, which was established in 2009, remained politically active throughout the al-Bashir regime and were pivotal in bringing about the Revolution.

Non-recognition of the role of women

During the Revolution, the role of women received much national and international attention. The photograph of activist Alaa Salah, leading protesters in song, dressed in a white thoub (traditional Sudanese women’s dress), made the headlines. The white thoub, traditionally worn by Sudanese women in the workforce, and previously associated with female Sudanese protesters against dictatorship, became a symbol adopted by many other female protesters and associated with the “Kandaka” queens of the Nubian Kingdom of Kush. The photograph became the image of the Sudanese Revolution after it went viral.¹¹⁸

The leading role of women in the first few months of the protests, widely recognised in the media, belied the large numbers of women being arrested and convicted by the regime’s emergency courts.¹¹⁹

¹¹⁶ Osman, Amira, “Beyond the pan-Africanist agenda: Sudanese women’s movement, achievements and challenges,” 2014, https://www.researchgate.net/publication/326735980_Beyond_the_pan-Africanist_agenda_Sudanese_women's_movement_achievements_and_challenges (accessed 8 June 2021).

¹¹⁷ Middle East Monitor, “Friends and foes unite to honour Sudan’s first female MP,” 15 August 2017, <https://www.middleeastmonitor.com/20170815-friends-and-foes-unite-to-honour-sudans-first-female-mp/> (accessed 8 June 2021).

¹¹⁸ New Zealand Herald, “The woman in white: Why a photo from the Sudan protests has gone viral,” 9 April 2019, <https://www.nzherald.co.nz/world/the-woman-in-white-why-a-photo-from-the-sudan-protests-has-gone-viral/6Y5I7TCTGREQU24JF3EE4UDZHY/>; CNN, “This woman has come to symbolize Sudan’s protests,” 10 April 2019, <https://edition.cnn.com/2019/04/09/africa/photo-woman-chanting-sudan-uprising-scli-intl/index.html> (accessed 8 June 2021).

¹¹⁹ Middle East Eye, “Sudanese woman sentenced to be lashed has square named in her honour,” 15 March 2019, <https://www.middleeasteye.net/news/sudanese-woman-sentenced-be-lashed-has-square-named-her-honour> (accessed 8 June 2021).

The broad-based civilian coalition, FFC, first formed following the signature and endorsement of the Declaration on Freedom and Change in January 2019. It included two women's groups: No to Women's Oppression Initiative and MANSAM (Sudanese Women in Civic and Political Groups, or Women of Sudanese Civic and Political Groups). On 7 March 2019, demonstrations took place to honour the role of women in the protest movement.¹²⁰ The following day, on International Women's Day, President al-Bashir ordered the release of all women who had been arrested for participating in protests. The move, though symbolic, perhaps indicated that the regime was at least taking note of the attention on women's fundamental role in the protest movement.

Under-representation in the transition process

Despite this, women were underrepresented in the transition process. Women were largely excluded from the negotiations between the FFC and TMC, and the call issued by MANSAM and the #50 Campaign (also known as Khamseen campaign) for a 50% quota for women in leadership roles in government was not met.¹²¹ While there were some high-profile appointments of women, including Neimat Abdullah Khair as the first female Chief of Justice,¹²² most transitional leadership selections fell short of expectations. Only two out of 11 initial members of the SC were female.¹²³ Following the Juba Peace Agreement, in February 2021, a constitutional decree added three more members to the SC; the new appointees were all men.¹²⁴ In May 2021, one of the two female SC members, Aisha Musa Sayeed, announced her decision to step down, citing interference from military officials.¹²⁵ Considering that women are estimated to have often made up 70% of the protesters on the ground,¹²⁶ the exclusion of women was short-sighted and, for some, delegitimised much of the work of the SC and transitional institutions.

Direct and indirect exclusion

Sudanese women were side-lined during the political negotiations process, either through direct exclusion, as male-dominated parties seconded male representatives to represent the civilian coalition in the negotiations team, claiming that they "do not have women" in their leadership structures, or indirectly, when the only woman in the negotiation process was sometimes left uninformed about meetings.¹²⁷ This points to structural exclusion of women from Sudan's political life.

¹²⁰ CBS News, "Women are leading the push to topple Sudan's Omar Hassan al-Bashir, and suffering for it," 8 March 2019, <https://www.cbsnews.com/news/sudan-women-lead-uprising-vs-omar-hassan-al-bashir-and-suffer-for-it/> (accessed 8 June 2021).

¹²¹ Sudan Next Gen, "Khamseen Campaign," <https://sudannextgen.com/members/khamseencampaign/> (accessed 8 June 2021).

¹²² This is Africa, "Transitional Council appoints Neemat Abdullah Khair as Sudan's first female Chief Justice," 16 October 2019, <https://thisisafrika.me/politics-and-society/neemat-abdullah-khair-sudan-first-female-chief-justice/> (accessed 8 June 2021).

¹²³ Aisha Musa Sayeed and Raja Nicola.

¹²⁴ Dabanga Sudan, "Sudan Sovereignty Council gains three new members under El Burhan," 5 February 2021, <https://www.dabangasudan.org/en/all-news/article/sudan-sovereign-council-gains-three-new-members-under-el-burhan> (accessed 8 June 2021).

¹²⁵ Reuters, "Woman on Sudan's ruling council quits, saying civilians are being ignored," 22 May 2021, <https://www.reuters.com/world/africa/woman-sudans-ruling-council-quits-saying-civilians-are-being-ignored-2021-05-22/> (accessed 8 June 2021).

¹²⁶ NGO Working Group on Women, Peace and Security, "Statement by Ms. Alaa Salah at the UN Security Council Open Debate on Women, Peace and Security," 29 October 2019, <https://www.womenpeacesecurity.org/resource/statement-unsc-wps-open-debate-october-2019/> (accessed 8 June 2021).

¹²⁷ See Reem Abbas, "A Year after Bashir's Fall, the Struggle for Sudanese Women Continues," Wilson Center Blog Post, 11 April 2020, <https://www.wilsoncenter.org/blog-post/year-after-bashirs-fall-struggle-sudanese-women-continues> (accessed 1 September 2021).

*"There are conservative gatekeepers who are not giving other HRDs a chance."
- WHRD, Khartoum.*

*"We as WHRDs still face more difficulties than them [men], in matters related to making decisions and participating in decision-making. "
- WHRD, Khartoum.*

Ineffective legal reforms and lack of inclusion of women

The lack of consultation with women and WHRDs in the recent legal reforms has been one of the most significant concerns of those interviewed for this research. WHRDs were not only left out of leadership roles but were also not adequately consulted in the drafting process with the Ministry of Justice, on major law reforms such as the repeal of the Public Order laws and criminalisation of FGM in July 2020. Several WHRDs mentioned that they were surprised when they saw the reforms being announced and felt blindsided that they had not been included in the decision-making process and planning.

Token representation and gatekeepers

Some felt that even if women were present in some decision-making spaces, it was symbolic, not substantive inclusion: "women were included apparently but not in actuality, as long as they are saying 'women representation' not women inclusion."¹²⁸

Many mentioned the idea of "gatekeepers" in Sudanese civil society, which were usually older, more conservative HRDs from certain, urban classes. These "gatekeepers" were involved in politics and decision-making but worked to keep other HRDs and WHRDs out of these spaces – particularly, younger, more diverse WHRDs with opinions different to theirs. When asked if WHRDs had played a role in legal reform, one WHRD said: "I do not think they were consulted, and even if they were it was probably a specific group with specific privileges, a specific political affiliation or belonging to specific political parties, and they are probably older."

This is supported by other HRDs who noted that workshops, meetings, and conferences are attended by the same women (including themselves) repeatedly, and that there is a distinct lack of effort to include other WHRDs outside of the usual circles.

"This was clear in the appointment of public offices, the women who were nominated did not represent Sudanese women, and many social groups were excluded, especially grassroots activists and working women from lower economic classes. - WHRD, Khartoum.

*Women were told about the recent reforms. The involvement of women in reforms was very weak. "
- WHRD, Khartoum.*

¹²⁸ Interviewee no.11, February 2021.

The lack of inclusion of voices from Sudanese civil society in the work of the entire Transitional Government, after it was formed, led several interviewed HRDs to question the legitimacy and effectiveness of decisions that were uninformed by those who work on the ground. Many WHRDs were not aware of the process and felt that the decisions were made internally to avoid tackling structural issues: “I think they only did it to go with the demands of the international community and the international community is looking for results without concern to the process.”¹²⁹

Side-lining from key processes

One WHRD mentioned that the level of consultation happening with stakeholders varied according to the Ministry in charge. They noted that while the Ministry of Social Development and Labour had been holding consultations, other ministries had not been in contact with HRDs or other stakeholders. Others also expressed their frustration that non-Sudanese consultants had been used to work on legal reform, while WHRDs who had been working within Sudan for decades had not been included: “There are people who worked on gender-informed law reform for many years, and they were excluded.”¹³⁰

A stark example of the exclusion of women from the transitional process was the all-male committee formed to investigate the Khartoum massacre.¹³¹ The exclusion of women from the committee dramatically undermined its work, considering the gendered impact of the massacre, in which many women were killed and at least 70 people raped and many more physically and sexually assaulted.

“Most probably a WHRD in the US had more chance to look at these amendments than a Sudanese one.” - WHRD, Khartoum.

If decisions about women are made without their meaningful involvement, there will be a disconnect between the lived experiences of women and what is decided. This gap is demonstrated in some of the legal reforms that have been initiated, which do not address many of the most pressing concerns of women. The definition of rape in criminal law still fails to fall in line with international human rights standards, and procedural provisions and practices increase the risk of failing to obtain justice (and to end up being prosecuted themselves) for women and girls.¹³² The way that cases are handled has not been addressed, neither has domestic violence; and economic rights have not been realised.

¹²⁹ Interviewee no.18, February 2021.

¹³⁰ Interviewee no.21, March 2021.

¹³¹ Dabanga, “Sudan activist: ‘Committee of Inquiry should include women’,” 23 October 2019, <https://www.dabangasudan.org/en/all-news/article/sudan-activist-committee-of-inquiry-should-include-women> (accessed 8 June 2021).

¹³² The 1991 law confused rape and adultery, which meant that if a rape victim failed to prove her case she could be punished for committing adultery (zina). The amendment expands the definition of rape and separates it from zina. For context see Walaa Salah, “Amendments to Sudanese criminal law,” Open Democracy, 30 April 2015, <https://www.opendemocracy.net/en/north-africa-west-asia/new-amendments-to-sudanese-criminal-law/> (accessed 1 September 2021).

Issues related to legal reforms

One WHRD pointed out the irony that the main “win” for women was the criminalisation of FGM: while this is welcome in a country where an estimated 87% of women have been affected,¹³³ in reality the enforcement mechanism is poor and there is a risk that it will only serve to target women, who are the ones carrying out the practice. The reforms also fail to address the legal system itself (or the mistrust and lack of confidence that many have in this system), particularly when reporting gender-based crimes. This renders certain reforms ineffective. Besides, the commission that is due to be established to reform the legal system has not begun to work. Following the 25 October 2021 coup, it is unclear whether it will be established at all.

In addition, reforms were not reflected in Sudanese family law. The Personal Status Act 1991, which is arguably one of the most oppressive laws for women in Sudan, remains intact. It allows for child marriage and discriminatory divorce and custody laws.¹³⁴ The Personal Status Act also retains a guardianship system that imposes restrictions on mothers travelling alone with their children. This contradicts Article 67(d) of the Constitutional Document, which calls for the repeal of all laws that discriminate against women.¹³⁵ It also restricts women’s employment, based on the permission that must be obtained of their husbands.

This also raises the question of religion-based reservations to international human rights instruments such as the CEDAW, which risk defeating their object and purpose, and ultimately their effectiveness in the domestic legal order.

Scepticism over post-2019 achievements

The lack of meaningful, women-led improvement in legal and policy practices led to a feeling of scepticism in interviewed WHRDs, which many expressed. For instance: “I do not believe that there is accountability, or that perpetrators are held accountable because the laws, practices, and conditions on the ground have not changed.”¹³⁶ Another WHRD stated: “there are no real changes, just change on paper.”¹³⁷ Many gave examples of restrictive laws and practices still being in place, such as arbitrary arrest, corporal punishment (lashing), and other violations that are still happening in Khartoum and elsewhere.

"They say after the transitional period that people should be more relaxed and less worried, but from my perspective I do not think anything changed." - WHRD, Khartoum.

¹³³ UNICEF, “Sudan Fact Sheet - Female Genital Mutilation (FGM),” 6 February 2020, [https://www.unicef.org/sudan/media/2811/file/UNICEF%20Sudan%20Fact%20Sheet%20%20Female%20Genital%20Mutilation%20\(FGM\).pdf](https://www.unicef.org/sudan/media/2811/file/UNICEF%20Sudan%20Fact%20Sheet%20%20Female%20Genital%20Mutilation%20(FGM).pdf) (accessed 8 June 2021).

¹³⁴ SIHA Network, “In Pursuit of Full Guardianship under the Sudan Personal Status Law,” 22 October 2018, <https://sihanet.org/gender-alert-in-pursuit-of-full-guardianship-under-the-sudan-personal-status-law/> (accessed 8 June 2021).

¹³⁵ Ayin Network, “Sudanese law amendments, more talk less action,” 21 October 2020, <https://3ayin.com/en/legal-reform/> (accessed 8 June 2021).

¹³⁶ Interview no.7, August 2020.

¹³⁷ Interview no.13, February 2021.

The desire of the cabinet, in particular the Ministry of Justice, to draw a clear line between the actions of the previous regime and the post-August 2019 government, and to show willingness to engage with the international human rights system was clearly an overriding priority. However, by neglecting to systematically and meaningfully include WHRDs, legal reform has not been fully informed by the rights and needs of women.

The government did not initiate comprehensive legal reform to fight discrimination against women, as defined in Article 1 of the CEDAW. Reforms were drafted with little attention paid to the practicality of implementation, which should include reform of security agencies, training, awareness-raising, and comprehensive human rights education with a view to bringing about societal change.

This is not to say that the goals of the Revolution were disregarded, but rather to illustrate that the Revolution, particularly for women, remained unfinished.

"When it came time to develop the agenda for Sudan and the political sphere, the exclusion of WHRDs was clear. From what I've seen of my WHRD colleagues, they do not have a presence in these spaces anymore." - WHRD, Khartoum.

Need for structural change

The now dissolved Transitional Government prioritised reforms that brought approval from the international community, such as ratifying international human rights instruments. While such steps were welcome and displayed the government's commitment to change, structural reform needs were unmet.

Reforms have had little practical effect

Until now, legal reforms regarding women's rights have had little effect on the ground. Between July and October 2020, months after the Public Order regime was abolished, Open Democracy reported that at least 30 women were injured or killed during protests and other incidents of violence around Sudan. At least seven women were arrested or faced lawsuits for participating in public events or expressing their opinion in public.¹³⁸ Women continue to be targeted by the law enforcement and security forces, and still have little access to redress when they are the victims of gender-based crimes.¹³⁹

"There is more resistance from everywhere, if you talk about human rights in general it is more accepted but as soon as you get to women's rights there is more resistance. "
- WHRD, Khartoum.

¹³⁸ Open Democracy, "In Sudan, women are still facing the deadly threat of the military," 5 October 2020, <https://www.opendemocracy.net/en/north-africa-west-asia/sudan-women-are-still-facing-deadly-threat-military/> (accessed 28 June 2021).

¹³⁹ SIHA, "Another Gendered Killing within One Month in Sudan," 3 May 2021, <https://sihanet.org/gender-alert-another-gendered-killing-within-one-month-in-sudan/> (accessed 28 June 2021).

The transitional authorities, including the (now dissolved) Transitional Government and the SC, faced many challenges, in a volatile political situation. Inability to bring about structural change is most noticeable in areas and sectors affected by corruption, nepotism, and abuse of power.¹⁴⁰ HRDs interviewed for this report pointed to a lack of security sector reform, and little to no restructuring of law enforcement. Several interviewees also felt that the changes had not brought any meaningful progress or effect on the ground. This has been evidenced by recent cases of police violence against women, who are still arbitrarily arrested and accused of “prostitution” or other offences.¹⁴¹

Within the transitional authorities, in particular in the SC, the military and armed forces retained a great deal of influence.¹⁴² Institutions that were expected to tackle women’s-related issues, such as the National Human Rights Commission (NHRC), were dissolved or not functioning pending creation of the commissions envisioned by the Constitutional Document.¹⁴³

While many civil society actors were appointed to roles within the government, for various reasons, they were unable to achieve much change. One WHRD said, “we are used to certain people leading campaigns and issues; a very large number of them are now in government and we expect them to take positions in their new roles [but] it just can’t work.”¹⁴⁴

Several factors, however, were at play and negatively impacted the civilian leadership’s effectiveness. They include the military’s powerful role but also other administrative and political factors, such as disarray within the FFC and the multiplicity of centres of decision-making in Sudan.

“It is clear that some HRDs had political aspirations, which I am not against, unless this political aspiration contradicts the rights you are calling for.” - WHRD, Khartoum.

¹⁴⁰ Anti-Corruption Resource Centre and Transparency International, “Corruption and anti-corruption in Sudan,” 22 August 2021, <https://assets.publishing.service.gov.uk/media/57a08a58ed915d622c0006b1/expertanswer-342.pdf> (accessed 24 June 2021).

¹⁴¹ Ayin Network, “Sudanese law amendments, more talk less action,” 21 October 2020, <https://3ayin.com/en/legal-reform/> (accessed 8 June 2021).

¹⁴² On resigning from the SC, Aisha Musa said in a statement to SUNA state news agency: “The civilian component in the sovereign (council) and at all levels of government has become just a logistical executive body that does not participate in decision-making. Rather it only stamps the approval of pre-prepared decisions.” US News, “Woman on Sudan’s Ruling Council Quits, Saying Civilians Are Being Ignored,” 22 May 2021, <https://www.usnews.com/news/world/articles/2021-05-22/woman-on-sudans-ruling-council-quits-saying-civilians-are-being-ignored> (accessed 28 June 2021).

¹⁴³ The Sudanese National Human Rights Commission (NHRC) was supposedly dissolved. Then, a committee was appointed to run it temporarily until a new NHRC Act is agreed and the commission formed. The commission suffered from a severe lack of influence, having been described as “weak and ineffective” (Interviewee no. 4, July 2020). The commission was not an independent institution. It did not comply with the Paris Principles for national human rights institutions (NHRIs) and did not apply for accreditation with the Global Alliance of National Human Rights Institutions (GANHRI). Successive UN Independent Experts on the situation of human rights in the Sudan have highlighted the need to strengthen the NHRC (see for instance OHCHR, “Press Statement of the UN Independent Expert on the Situation of Human Rights in the Sudan, Mr. Aristide Nononsi,” 21 May 2017, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21650&LangID=E> (accessed 25 June 2021).

¹⁴⁴ Interviewee no.9, January 2021.

Central and state governance in Sudan

The diversity of Sudan and the legacy of the former regime both work to frustrate structural change. Under the previous regime, al-Bashir was head of state, head of government, and commander-in-chief of the Sudanese Armed Forces (SAF). He presided over Sudan during much of the civil war in the south, years of conflict and atrocity crimes in Darfur, new wars in the Nuba Mountains and Blue Nile, and oversaw a highly repressive security apparatus. Previously, each state was governed by a governor and council of ministers, which were chosen by the President. Following the Revolution, this system was dissolved; however, many people involved in, and who supported, the previous regime still occupy positions of power across the country and can frustrate or block change. This is noted as being a particular issue outside of Khartoum, where in some areas the military regime is still in power (such as in the eastern states), or there remains widespread impunity and lack of accountability (such as in the Darfur region and in South Kordofan).

In addition, the various parallel systems of governance in different rural communities, such as the traditional “native administrations,” are also operating with their own agendas. This means that when a law is implemented or amended in Khartoum (for example criminalisation of FGM), the implementation in local communities may fall to a traditional leader, who may ignore the change. Local leaders in areas that are marginalised and hard to reach may wield greater power, as there is little chance for monitoring and oversight.

"The backlash against the feminist movement that it is only a Khartoum thing, that does not work anymore because there are activists everywhere in Sudan and it is not about them being influenced by Khartoum, rather they are just beginning to have the chance to reach platforms and have their voices heard. " - WHRD, Khartoum.

Urban centres vs. rural areas

WHRDs interviewed for this report distinguished between the impact of the Revolution in different cities or states, and between rural and urban areas. Some felt that outside of Khartoum and other large urban centres,¹⁴⁵ it was hard to see the effects of the Revolution. In addition, the needs of women varied between regions and rural and urban areas. For example, women in rural areas struggle with maternal mortality, child, early and forced marriage, other harmful practices such as FGM, and access to basic healthcare and food, in far higher numbers than those in urban centres. They are less likely to be formally educated and may have fewer opportunities to join community decision-making structures than their urban counterparts.

¹⁴⁵ NGO Working Group on Women, Peace and Security, “Statement by Ms. Alaa Salah at the UN Security Council Open Debate on Women, Peace and Security,” 29 October 2019, <https://www.womenpeacesecurity.org/resource/statement-unsc-wps-open-debate-october-2019/> (accessed 8 June 2021).

In turn, women in areas where Islamic practices are more conservative, such as eastern states, reported much less actual freedom over dress and religion than women in Darfur. It was also noted that the situation for displaced women, or those living in conflict areas, was again different, their main concerns being basic humanitarian needs and access to safety. These differences highlight the need for a diverse and locally orientated approach to women's rights across the country, reflecting the full range of women in Sudan. Most importantly, structural change that goes beyond formal legal changes is needed.

The role of social norms and cultural traditions

During the Revolution, many grassroots groups emerged and called for gender equality. However, decades of moralistic and conservative Sharia-led law created a sentiment in society that the behaviour of women, seen entirely through the lens of their roles as mothers and wives, is intrinsically linked to the moral standard of the entire country. Therefore, a government that seeks to “liberalise” laws concerning particularly sensitive topics, such as how women dress, their freedom of movement, or their sexual behaviour (including access to reproductive health and sexual education services), will be seen to be “lowering” the standards of the whole country.

The Transitional Government did not operate in a vacuum. It was influenced by Sudanese social norms. A government's ability to rule depends on maintaining public trust and acceptance. Illustrating this delicate balance, one WHRD said, “you are facing a government that wants to be socially accepted and facing a society that feels that their religion and traditions are being threatened.”¹⁴⁶ Therefore, while the Constitutional Document commits to various obligations concerning gender equality, this did not translate into practical change in women's and girls' daily lives.

The need for societal acceptance also has an impact on civil society. Generally, HRDs who were interviewed believed that they had more space to work in post-Revolution Sudan. However, they noted that they did not enjoy total freedom as to what issues they could address, and that there were certain “lines” that, if crossed, could result in withdrawal of the community's tolerance.

Culturally and politically sensitive topics

The most controversial topics mentioned were sexual and reproductive health and rights (SRHR), including access to safe abortion; harmful traditional practices such as FGM and child marriage; and sexual violence. Issues concerning sexual orientation and the Lesbian, gay, bi, trans persons, and other sexual minorities (LGBT+) community were largely considered to be the most difficult issues to work on. One WHRD said: “no one can say they are queer activists.

¹⁴⁶ Interviewee no.11, February 2021.

I can say I am an SGBV [sexual and gender-based violence] activist, but not a queer activist or ally. This is an almost impossible cause.” LGBT+ issues are deemed to be such a dangerous topic to work on that even non-LGBT+ HRDs, who had simply expressed support or allyship of the cause had faced reprisals: “working on LGBT+ health and rights you can imagine how that goes. It is not safe and I do not think it is possible.”¹⁴⁷

While the now dissolved Transitional Government reformed Article 148 – a step in the right direction significant issues remain from a human rights perspective¹⁴⁸ – there was no corresponding public engagement or sensitisation on the topic. LGBT+ rights continue to be taboo and risky for civil society activists to work on.

“If you speak about women’s rights, they [the community] will not accept it because it contradicts their traditions, and they think we are trying to bring foreign concepts to them and to change the concepts that women have. This takes an effort, and men must be part of the work.” - WHRD, South Kordofan.

Progress cannot be achieved without reflections about, and action to address, the structures that have historically generated abuses. This process will certainly not happen overnight but showing commitment to it is necessary to build HRDs’ and society’s trust in the government and authorities, which may in turn allow for legal reforms and civic education on rights issues to be better received.

If authorities are serious about achieving such change beyond Khartoum and urban centres, they need to recognise the unique importance of, better protect, and facilitate the work of, WHRDs and civil society. In doing so, and in working to include WHRDs in decision-making processes and advisory spaces, they will stand a better chance of enacting reform that is accepted and implemented by society. Following the military coup of 25 October 2021, however, uncertainty over the reform agenda and women’s rights and gender equality is high. The limited achievements of the 2019-2021 period may be at risk.

“Literally three years [ago] we were living in a country that [was] dominated by men everywhere and that privilege has not disappeared. ” - WHRD, Khartoum.

Long-standing and new threats

The vast majority of HRDs and WHRDs who were interviewed for this research worked despite ongoing threats to their safety. Many had experienced the difficulties of working under the al-Bashir regime, when they faced physical, verbal, and online threats.

¹⁴⁷ Interviewee no.12, April 2021.

¹⁴⁸ Article 148, as amended, removes lashings and the death penalty, but remains problematic as it actually increases the jail time from a maximum of five years to a maximum of seven years. In the case of repeat offenders (third time), the punishment is no longer the death penalty, which was never implemented in the first place, but life imprisonment.

The threats often came from the government or authorities themselves, including agencies such as NISS and HAC. One WHRD explained that the “lack of safety used to be out of fear of security entities . . . we feared being arrested or targeted.”¹⁴⁹

Ongoing gender-specific threats

WHRDs faced threats specific to their gender, with government and security agents using threats and acts of sexual violence against women: “the . . . methods used on women are more dangerous, for example we saw many activists who faced sexual violence or rape because it is known that it is a tool to humiliate [them].”¹⁵⁰

Surveillance, intimidation, and harassment even extended to international advocacy spheres, for instance corridors of the Human Rights Council, where Sudanese government agents and their proxies followed and monitored the activities of HRDs.

Threats continued during the Revolution, especially in demonstrations. The Khartoum massacre of 3 June 2019, during which at least 70 women were raped, is a stark example of the disturbing reality of the violence used against women protesters.¹⁵¹

When speaking to HRDs working in Sudan today, it is apparent that the risks have not disappeared, but instead the source of threats has shifted.

"After the Revolution, the main source of threats became the community, and the threat differs according to the topic on which you work and its sensitivity to society. "
- WHRD, Khartoum.

Of the 39 HRDs interviewed for this research, 18 had previously experienced physical threats and 26 had experienced verbal threats. In addition, of the interviewed WHRDs, 18 reported sex discrimination and seven, SGBV. These figures capture threats or incidents from before, during, and after the Revolution.

¹⁴⁹ Interviewee no.34, March 2021.

¹⁵⁰ Ibid.

¹⁵¹ Sudanese Human Rights Group, “DO YOU WANT RAPE OR DEATH?” An Analysis of Sexual and Gender Based Violence at the June 3rd, 2019 Sit-In in Khartoum, Sudan, 3 June 2021, <https://www.huqouq.org/an-analysis-of-sexual-and-gender-based-violence-at-the-june-3rd-2019-sit-in-in-khartoum-sudan/> (accessed 8 June 2021).

Sources of the threats

A wide range of responses were given concerning the source of the threats against HRDs. They include, but are not limited to, the state and their operatives (e.g., NISS,¹⁵² police, RSF); social media users; community members; and even other HRDs.¹⁵³

The majority of HRDs who observed a shift in the threats directed against them felt that the source had moved from being primarily the state and its agents and affiliates, to society and communities they work in. One HRD said: “the major one to deal with after the Revolution is the threats coming from society and the presence of the strong social stigma when engaging in some issues, which are considered as taboos within the community.”¹⁵⁴ Another stated that the emergence of diverse groups, which were more visible and active during the Revolution than ever before, had posed a threat to those who were used to benefitting from conservative and religious structures, and that as a result “society has become more aggressive.”¹⁵⁵ A clear example of this was seen following the cabinet’s vote to ratify the CEDAW. Less than one month later, the Fiqh Academy (a Muslim jurisprudence institution that falls under the Ministry of Religious Affairs) issued a fatwa against the Convention.¹⁵⁶

When discussing the reasons behind this shift, several HRDs pointed to a feeling of loss of control in society. They noted that before the Revolution, society was focused on one main issue – the dictatorship, which controlled all aspects of life. After the Revolution, retaliations increased against women,¹⁵⁷ who were suddenly beaten and assaulted in the streets when they had rarely been before,¹⁵⁸ possibly as retaliation for their participation in the Revolution. While claims about society at large are challenging to back without large-scale sociological surveys, these testimonies indicate that many segments of society remain conservative and explain why the legacy of the al-Bashir regime is so prevalent.

A societal backlash?

Those monitoring these issues believed that the societal backlash was due to the fact that previously, the patriarchal rules of society were enforced by Islamists in the government and in power centres; once the regime was overthrown, society realised that the patriarchal rules they relied on were not necessarily being enforced in a top-down manner anymore: “many people who were depending on the Islamists to enforce these patriarchal values are now forced to take matters into their own hands.”¹⁵⁹

¹⁵² It is important to note here that the NISS still have the power to arrest. There has been a change in policy and practice, to some extent boosted by the amendments to the National Security Act 2010, in July 2020, but their power to arrest remains in place.

¹⁵³ An HRD must act to promote or protect human rights using only peaceful means. Therefore, someone who engages in violence, or other criminal activity can no longer be considered an HRD as per the UN Declaration on HRDs and civil society, including DefendDefenders’ standards.

¹⁵⁴ Interviewee no.3, July 2020.

¹⁵⁵ Interviewee no.8, January 2021.

¹⁵⁶ Ayin Network, “Fighting for women’s rights in Sudan, gains and setbacks amidst harassment,” 20 May 2021, <https://3ayin.com/en/women-activists/> (accessed 8 June 2021).

¹⁵⁷ The National News, “Sudan’s women flogged in public by young men ‘inspired by’ violent social media campaign,” 5 May 2021, <https://www.thenationalnews.com/mena/sudan-s-women-flogged-in-public-by-young-men-inspired-by-violent-social-media-campaign-1.1215635> (accessed 8 June 2021).

¹⁵⁸ SIHA, “Civil Society Statement: The Sudanese Transitional Government has Blood on its Hands: The Pattern of Violence against Women and Girls Continues,” 30 March 2021, <https://sihanet.org/civil-society-statement-the-sudanese-transitional-government-has-blood-on-its-hands-the-pattern-of-violence-against-women-and-girls-continues/> (accessed 24 June 2021).

¹⁵⁹ Interviewee no.21, April 2021.

Thus, dominant sections of society, including men, have been emboldened to enforce, with their own hands, the inequality that they are used to and benefit from.¹⁶⁰

"There was some time after the Revolution we were under the illusion that it is safe, but it is not safe because the same people are doing the same things and the same possibility to be targeted is still there. What has not changed or might have even increased is the fear of society and the possible backlash." - WHRD, Khartoum.

Weam Shawgi

The use of online attacks to harass and silence HRDs is an increasing concern for defenders, as the internet becomes a more polarised space. WHRDs are more likely to face gendered threats online, including sexual abuse, gender-based violence (GBV), threats, and smear campaigns.¹⁶¹ In Sudan, this form of societal bullying has been used against WHRDs throughout and after the Revolution, as women have become more visible and their voices were amplified. One example is the case of Weam Shawgi, a Sudanese WHRD who has been targeted online due to her work. In July 2019, a photograph of Shawgi holding a sign reading "Feminist is the first Revolution, may the patriarchy fall" went viral. She was accused online of undermining Sudanese values and family life, and she received death threats. Many of the threatening messages came from women who believed that she had gone "too far."¹⁶²

The threats that WHRDs face need to be considered against the backdrop of the gender-based violence that women and girls in Sudan continue to experience on a daily basis. GBV is fuelled by high levels of gender inequality.¹⁶³ A recent study on sexual harassment and domestic violence found that 22% of women in Sudan had experienced domestic violence.¹⁶⁴ 35% of all women reported that they had been verbally sexually harassed, and 29% physically harassed or abused, in the past 12 months.¹⁶⁵ These figures are likely to be vastly lower than reality due to the massive stigma around reporting SGBV. Many women and girls who report violence or harassment in Sudan are ignored or may be penalised themselves. There are no laws that specifically deal with GBV, and domestic violence is not criminalised as such. Marital rape is not recognised as a criminal act either. In addition, the justice system has long supported the notion that violence against women should be kept private or dealt with within the family.

¹⁶⁰ Interviewee no.21, April 2021; interviewee no.38, May 2021; and interviewee no.39, June 2021.

¹⁶¹ DefendDefenders, "Women Human Rights Defenders and their Protection Needs," 15 February 2021, <https://defenddefenders.org/whrd-protection-brochure/> (accessed 8 June 2021).

¹⁶² African Feminism, "Going 'too far', 'too personal'? Insights on Sudanese Women's Organizing and the Revolution," 25 September 2019, <https://africanfeminism.com/going-too-far-too-personal-insights-on-sudanese-womens-organizing-and-the-revolution/> (accessed 8 June 2021).

¹⁶³ Sudan currently ranks 168 in the Gender Inequality Index. UN Data, Gender Inequality Index, <http://data.un.org/DocumentData.aspx?id=415> (accessed 8 June 2021).

¹⁶⁴ Arab Barometer, "Sexual Harassment and Domestic Violence in the Middle East and North Africa," December 2019, <https://www.arabbarometer.org/wp-content/uploads/Sexual-Harassment-Domestic-Violence-Arab-Citizens-Public-Opinion-2019.pdf> (accessed 8 June 2021).

¹⁶⁵ Ibid, pp. 4-5.

During the COVID-19 lockdown, between March and May 2020, the number of domestic violence cases against women and girls increased, with the Social Welfare Ministry reporting 42 cases in one month.¹⁶⁶ This figure is likely to be lower than reality. The pervasiveness of violence against women at home is mirrored on the streets and in the workplace. It is especially directed at women who are deemed to push boundaries or “go too far.” This makes WHRDs clear targets for online, as well as offline, verbal, and physical harassment and violence from members of the general public, their families and authorities. Many perpetrators of violence go unpunished.

In April 2021, hundreds of women protested in Khartoum, calling for more legal reforms for women, such as ratification of the CEDAW Convention. The demonstration witnessed male backlash. In one incident, a man drove his car into the female protesters. In another, a group of male university students shouted at the women, threatening them with rape.¹⁶⁷ Despite several complaints being filed, no charges were brought, and instead the woman who led the complaint against the driver of the car was held in detention for two days after friends of the driver brought counter claims against her. This is a clear example of the violence and harassment that women, girls and WHRDs face from ordinary members of the public, and the almost unconditional support that is given to male perpetrators by the authorities.

#MyFatherKilledMe

In March 2021, 13-year-old Samah al-Hadi was shot three times and run over by a car, allegedly by her father, after she requested to transfer schools.¹⁶⁸ Despite the fact that neighbours told police that the father was known to abuse his children, he was released without charge. No post-mortem was carried out and the father was given permission to quickly bury Samah’s body. The case caused outrage on social media in Sudan, with a petition to re-open the police file amassing close to 3,000 signatures.¹⁶⁹ Many women spoke out online, recounting times that they had been subject to violence at home – drawing attention to the high rates of domestic violence in Sudan, where it is not specifically covered by law. Those who have spoken out about Samah’s death have faced harassment online and reprisals from the government.

¹⁶⁶ Voice of America, “Reports of Gender-Based Violence Increase in Sudan During COVID Lockdown,” 26 May 2020, <https://www.voanews.com/africa/south-sudan-focus/reports-gender-based-violence-increase-sudan-during-covid-lockdown> (accessed 8 June 2021).

¹⁶⁷ Dabanga Sudan, “Sudanese women protest gender discrimination, demand legal reform,” 9 April 2021, <https://www.dabangasudan.org/en/all-news/article/sudanese-women-protest-gender-discrimination-and-demand-legal-reform> (accessed 8 June 2021).

¹⁶⁸ The Guardian, “‘Ugliest crime’: Outcry in Sudan over lack of justice for killing of teenage girl,” 26 March 2021, <https://www.theguardian.com/global-development/2021/mar/26/ugliest-outcry-in-sudan-over-lack-of-justice-for-killing-of-teenage-girl> (accessed 8 June 2021).

¹⁶⁹ Change petition, <https://www.change.org> (النائب العام السودان نحن الموقعون بكل الصدمة والاستنكار نرفع المذكرة المرفقة حول مقتل -) (as of 11 November 2021) (accessed 11 November 2021).

WHRDs face more threats than their male peers, simply for being women who speak out. These gendered threats, and the fear that they instil, affect women's ability to fully enjoy and exercise their civic space rights, which are integral to a democratic society and the work of HRDs.¹⁷⁰ While HRDs generally recounted stories of being targeted by death threats, organised online attacks, and personal attacks in the media, it was WHRDs who noted that they could face these issues no matter what they were talking about. They were attacked simply for being women speaking out. One WHRD said, "The attempts to silence women are stronger, more aggressive, and have active social support."¹⁷¹

Although many of these threats come from private persons, the lack of protection from the government, lack of accountability, and pervasive impunity, which result in a form of acquiescence by the authorities, demonstrate an inability or unwillingness to protect women from discrimination and violence.

"On the street the harassment level has increased, and as soon as you state that observation people blame it on how women dress and ask us: isn't this the freedom we were seeking?" - WHRD, Khartoum.

Additionally, the likelihood of experiencing threats varies depending on geographical location. The research found that HRDs outside of Khartoum were more likely to have experienced verbal and physical threats. Verbal threats were reported by 75% of HRDs outside of Khartoum, and 62% by those in Khartoum. Physical threats were reported by 50% of those outside of Khartoum and 44% in Khartoum. One WHRD from North Darfur spoke about the challenges of working in rural areas: "In rural areas I am considered someone who comes to provoke women; their institutions are different, for example traditional administrations and traditional courts and they are not cooperative at all."¹⁷² In relation to gender-based threats, 67% of WHRDs outside of Khartoum reported discrimination based on sex or gender, and 33% reported SGBV. WHRDs based in Khartoum, reported 70% and 25%, respectively.¹⁷³ One of the main concerns interviewed HRDs raised was the lack of protection facing these threats and their inability to access protection or justice and redress mechanisms. An interviewee said: "We do not have access to support and protection mechanisms. the old state was violating our rights, the new state still has not created anything to protect us as WHRDs or for HRDs in general. For me, official support is still absent, and access to such mechanisms is not available."¹⁷⁴

¹⁷⁰ Human Rights Council, "Situation of women human rights defenders: Report of the Special Rapporteur on the situation of human rights defenders," UN Doc. A/HRC/40/60, 10 January 2019.

¹⁷¹ Interviewee no.9, January 2021.

¹⁷² Interviewee no. 24, April 2021.

¹⁷³ These figures may not be truly representative of reality, due to the sensitivity of reporting such incidences, especially for women from more conservative or marginalised backgrounds.

¹⁷⁴ Interviewee no.8, January 2021.

this makes their work more dangerous and can result in inability to continue their activism due to fear of the consequences.

Authorities need to ensure that threats against all HRDs, including WHRDs, are treated with the level of seriousness that they warrant and that perpetrators do not act with impunity. This requires education of the public, training of police and other authorities, and wider awareness-raising about gender, as well as effective remedies that include criminal accountability for the perpetrators and reparations for the victims, so as to prevent recurrence. Until this happens, the environment that HRDs operate in will continue to stifle them, and civil society will be unable to flourish.

"I do not think there are any support mechanisms, if we fall, we fall, I guess. "
- HRD, Khartoum.

Administrative challenges

The fear of being monitored, intimidated, harassed, arrested, disappeared, assaulted, and even killed was a reality for HRDs across Sudan during the al-Bashir regime. However, this was only one dimension of the way that authorities restricted the work of HRDs. They also used legal, policy, and bureaucratic strategies to hinder the work of civil society. These strategies included burdensome requirements to register and obtain permission to conduct activities from HAC and NISS.

Registration

Of those interviewed for this research, 29 were affiliated with or worked for a Sudanese organisation, of which only 13 were registered in Sudan. Thus, 16 were not registered, despite employing teams of an average of 18 staff members each. Of those who were registered, many had only been able to do so after the Revolution, due to the heavy restrictions put in place by the previous regime.

Voluntary and Humanitarian Work (Organization) Act (2006)

The Voluntary and Humanitarian Work (Organization) Act,¹⁷⁵ enacted in 2006, dictates the principles and objectives governing humanitarian work. The Act had an overall effect of tightening and regulating the work of civil society, through provisions that banned funding from foreign donors without Ministry approval, and the establishment of a Registrar General, working for HAC, with wide powers of discretion in granting registration. The Act imposes restrictions to freedom of association and allows for increased control over NGO and CSO work by Sudanese authorities. In addition, it allows for greater surveillance of HRDs and organisations by requiring staff members of NGOs to provide their full names and addresses and giving the Registrar powers to examine records of and keep basic documents and reports on the NGO. The Act states that registration applications could be refused if the activities “are inconsistent with principles provided” in the Act.¹⁷⁶ Since its enactment, the Act became a tool frequently used by the al-Bashir regime to stifle the work of civil society and sanction HRDs.

Currently, a group of organisations, including Sudanese Development Initiative, are working on a draft law that would replace the 2006 Act. It is hoped that the draft law will bring the registration process in line with Article 57(1) of the Constitutional Document, which guarantees, “the right to free organization without others, including the right to form political parties, associations, organizations, syndicates and professional unions, or join the same in order to protect their interests.”

After the Revolution, it was hoped that the authorities would reform the system of NGO registration and curtail the wide-reaching powers of HAC and the Registrar General. However, the Voluntary and Humanitarian Work Act, which grants these powers to these bodies, has remained in place.¹⁷⁷ This means that organisations can be closed down or sanctioned at the whim of the government.

¹⁷⁵ Sudan: Organisation of Humanitarian and Voluntary Work Act 2006 [Sudan], 20 February 2006, available at: <https://www.refworld.org/docid/4c0370272.html> (accessed 8 June 2021).

¹⁷⁶ *Ibid.*, section 13(1)(a).

¹⁷⁷ A highly repressive law was passed in 2020, but the government took it back after heavy criticism from civil society. See Sudan Civic Space Monitor, 7 March 2021, <https://sudan.civicspace.org/hac-new-regulations-stifle-civic-space-part-1-5/> (accessed 1 September 2021).

In November 2019, the Ministry of Labour and Social Development announced its decision to deregister more than 50 NGOs, whom they said had committed violations with regard to registration, funding, and technical agreements.¹⁷⁸ The decision was described as a response to the fact that at least 32 of these organisations were allegedly tied to the al-Bashir regime. Whether the decision was justified or not, questions revolving around possible infringements on the enjoyment of right to freedom of association, in relation to due process, remain.

According to several of the HRDs interviewed for this research, after the Revolution the administrative situation for organisations improved, at least in Khartoum. One HRD pointed out that in Darfur, civil society still faced interference from, and corruption in, the government and administrative bodies.

Additionally, organisations or groups focusing on LGBT+ work have been unable to register due to the criminalisation of same-sex relations in Sudan. The registration rules also stifle the ability of smaller organisations to officially work. One WHRD working for a national network explained that local initiatives and national networks of smaller organisations faced the biggest issues getting registered and were often forced to join with larger and more well-established NGOs, usually based in Khartoum. They noted that this had the effect of stifling the organisation's work, as the larger NGO generally has the power to influence their mandate. This has had a silencing effect on more local-level, grassroots work and contributed towards the concentration of the most amplified voices being Khartoum or urban-centred.

Despite this, many HRDs felt that the threat posed by HAC and the need for registration had reduced, noting that many people were also working without being registered. Tolerance for these situations seems to have increased post-2019. In this regard, while legal certainty is preferable, one should note that the ACHPR, in its Guidelines on Freedom of Association and Assembly in Africa, has made it clear that "States shall not compel associations to register in order to be allowed to exist and to operate freely. Informal (de facto) associations shall not be punished or criminalized under the law or in practice on the basis of their lack of formal (de jure) status."¹⁷⁹

¹⁷⁸ Dabanga Sudan, "UN, partners, Sudan govt to continue aid after dozens of NGOs closed," 7 December 2019, <https://www.dabangasudan.org/en/relief-news/article/un-partners-sudan-govt-to-continue-aid-after-dozens-of-ngos-closed> (accessed 8 June 2021).

¹⁷⁹ ACHPR, Guidelines on Freedom of Association and Assembly in Africa, 10 November 2017, https://www.achpr.org/public/Document/file/English/guidelines_on_freedom_of_association_and_assembly_in_africa_eng.pdf (accessed 25 June 2021).

Access to funding

In practice, the registration status of an organisation has a direct effect on their ability to secure funding. Many grant-making organisations require that their grantee partners be registered and hold bank accounts in the country that they operate in. Thus, organisations in Sudan that are unable to register are unlikely to be able to access larger, more sustainable funding streams. Another restriction related to access to funding is found in the 2006 Act, which states in section 7(1) that funding for programmes “shall be through a project instrument to be approved by the commission”; and (2) that no NGO “shall receive funds, or grants from abroad, from an alien person internally or from any other body, save upon approval of the ministry.”

Without access to funding, organisations may be unable to attract and pay staff, and they will struggle to fund their activities and ensure sustainability. Several interviewees mentioned the lack of stable income as being a challenge in their work. One HRD said: “I am forced to work at my own job and work as an HRD.”¹⁸⁰

Labour laws

Restrictive labour laws enshrine gender inequality. The Labour Law 1997 discouraged women from work that was “hazardous, arduous or harmful to their health [...] exceeding the normal limits borne by women.”¹⁸¹ In Chapter IV, Section 20(1), women are forbidden from working between 10pm and 6am, with some exceptions. Section 20(3) states that women must receive at least one hour of rest per day, and they shall not work more than five hours without a rest. While at face value, these laws are protective of women against exploitation or other dangers, they serve to enforce the patriarchal idea that women need greater protection and care than men and are therefore not “cut out” for the workplace, and should stay at home.

The restricting of when, where, and for how long, women can work means that men are a “safer” employment option, as they require less special attention than women and can work without restrictions. These laws contravene Article 18(3) of the Banjul Charter, and Article 7(c) of the CEDAW when affecting WHRDs in their work as a defender. They also serve to discriminate against WHRDs in any work that they take on outside of their activism, contravening Article 11 of the CEDAW and 48(2) of the Constitutional Document, which guarantees “the equal right to enjoy all civil, political, social, cultural, and economic rights.”

¹⁸⁰ Interviewee no.28, April 2021.

¹⁸¹ Sudan: The 1997 Labour Code [Sudan], unofficial translation: <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/49122/65103/E97SDN01.html> (accessed 8 June 2021).

Issues related to freedom of expression

General issues

Restrictions on freedom of expression and of the media also undermine human rights work. HRDs often find themselves intimidated, harassed, or arrested for publishing or speaking out about their work. Since the Revolution, the situation has improved, which is reflected in civic space monitoring tools, such as the CIVICUS Civic Space Monitor. In the latter, Sudan has improved from being “Closed” to “Repressed”; in Freedom House’s Freedom on the Net 2020 rating, Sudan has improved from 25 to 30/100.

However, freedom of expression remains unduly restricted, and the 25 October 2021 military coup now threatens to annihilate progress made since 2019.

In a report to the UN Human Rights Council ahead of Sudan’s UPR, DefendDefenders and the African Centre for Justice and Peace Studies noted that several incidents had occurred, which undermine freedom of the media and freedom of expression. On 12 June 2020, the Sudanese Journalist Network (SJN) reported that the checkpoints intended to regulate COVID-19 were de facto restricting them from informing the public. In addition, concerns mounted about the ongoing use of the Cybercrime Act 2018 to harass, prosecute, and censor journalists and activists. On 18 July 2020, the army declared that it was ready to resort to legal action against individuals who “insult” them, including journalists and activists.

On 11 February 2021, Orwa Alsadig, a Sudanese politician and political activist, was sued by the SC for publishing lies, fake news, and insults, after a speech he made was widely shared on social media. These incidents point to a lack of respect for freedom of opinion and expression, despite the provisions of Article 56 of the Constitutional Document and international human rights instruments to which Sudan is a party, including Article 19 of the ICCPR.

After 25 October 2021, the de facto military authorities imposed a partial internet shutdown and cracked down on protesters demanding civilian rule. At the time of finalising this report, repression is increasing.

182 CIVICUS Monitor, Sudan, <https://monitor.civicus.org/country/sudan/> (accessed 8 June 2021).

183 Freedom House, Freedom on the Net 2020, Sudan, <https://freedomhouse.org/country/sudan/freedom-net/2020> (accessed 8 June 2021).

184 DefendDefenders and ACJPS, “Submission to the United Nations Universal Periodic Review, 39th Session of the UPR Working Group, Sudan,” 25 March 2021, https://defenddefenders.org/wp-content/uploads/2021/03/Sudan-UPR-report-Final_ACJPS-clean-version-FINAL.pdf (accessed 8 June 2021).

185 Radio Dabanga, “Khartoum journalists complain about coronavirus checkpoints”, 12 June 2020, <https://www.dabangasudan.org/en/all-news/article/khartoum-journalists-complain-about-coronavirus-checkpoints> (accessed 8 June 2021).

185 Voice of America, “Sudan Army Vows to Answer ‘Insults’ With Lawsuits”, 18 July 2020, <https://www.voanews.com/africa/sudan-army-vows-answer-insults-lawsuits> (accessed 8 June 2021).

186 Global Voices, “Sudan’s revised cybercrime law falls short on its promise”, 4 March 2021, <https://globalvoices.org/2021/03/04/sudans-revised-cybercrime-law-falls-short-on-its-promise/> (accessed 8 June 2021).

187 Global Voices, “Sudan’s revised cybercrime law falls short on its promise”, 4 March 2021, <https://globalvoices.org/2021/03/04/sudans-revised-cybercrime-law-falls-short-on-its-promise/> (accessed 8 June 2021).

Gender-specific issues

The repression of WHRDs' freedom of expression is made worse by their gender status. Many violations include a gender dimension. Women are often silenced simply for being women.

Front Line Defenders highlighted the case of WHRD Waad Bahjat, who on 8 November 2020, was charged with defamation, insult to a public servant exercising judicial proceedings (Article 116 of the Sudanese Criminal Act of 1991), publishing false news (Article 66), and public annoyance (Article 77).¹⁸⁸ Bahjat was charged for posting a live video on Facebook recording an incident where several women were harassed by the SAF and denied access to fuel at a petrol station. She faced a six-month suspended sentence. More recently, on 18 March 2021, a WHRD was charged with publishing false news under the Cybercrimes Act, after she posted on Facebook discussing the healthcare situation in Sudan.¹⁸⁹ Women are also at a much higher risk of having their freedom of expression curtailed by non-state actors in the private sphere, and in informal ways, due to living in a patriarchal society that does not value outspoken women.

Despite these challenges, many WHRDs who were interviewed had found their voice online and on social media, during and the after the Revolution. Although speaking out online carries a risk of prosecution, like for print media, many felt that it had helped them reach wider audiences and spark broader discussions. An HRD stated that things were becoming "a little bit easier, especially that now everyone has access to various platforms to express themselves."¹⁹⁰ Another noted that since the Revolution, "HRDs are more outspoken on social media platforms."¹⁹¹

"Where you can easily accomplish something is . . . through social media, it does not cost anything, . . . it targets the youth, and they are the ones who can influence their areas. - HRD, South Kordofan.

¹⁸⁸ Front Line Defenders, "Waad Bahjat," <https://www.frontlinedefenders.org/en/profile/waad-bahjat> (accessed 8 June 2021).

¹⁸⁹ ACJPS, "A female human rights defender faces trial for online publications of "false news" under the Cybercrimes Act, 2018," 26 March 2021, <https://www.acjps.org/a-female-human-rights-defender-faces-trial-for-online-publication-of-false-news-under-the-cybercrimes-act-2018/> (accessed 8 June 2021).

¹⁹⁰ Interviewee no.35, April 2021.

¹⁹¹ Interviewee no. 13, February 2021.

The challenges that HRDs face in carrying out their work are widespread and can be as crippling as the threats discussed in the previous section. Just as HRDs need protection from physical threats, they also need capacity building, access to funding and resources, and support from their government to register and carry out their work. To strengthen civil society and allow it to flourish, authorities must prioritise reforms that facilitate the practical side of the work of NGOs, CSOs, and HRDs. Special attention should be paid to WHRDs and smaller, rural, women-led organisations. Until discriminatory laws are amended, women will be unable to fully join the labour force and this will in turn hold back the potential of women in civil society.

"You realize that men still have a very massive privilege when it comes to how they create alliances and associations with decision makers or even stakeholders and beneficiaries." - WHRD, Khartoum.

Intersecting threats and challenges

Intersectionality is a sociological term used to describe how race, ethnicity, class, gender, and other individual characteristics “intersect” with one another. The term is now used in both legal and non-legal spaces to reflect the reality that most people have different, overlapping, belongings that shape their life experiences and identity. In short: there are multiple and intersecting forms of discrimination. Several grounds of discrimination can interact concurrently. As the UN Special Rapporteur on HRDs stressed, “women defenders often face additional and different risks and obstacles that are gendered, intersectional and shaped by entrenched gender stereotypes and deeply held ideas and norms about who women are and how women should be.” When analysing the situation for HRDs in Sudan, it is essential to look through the prism of intersectionality, to reflect the vast diversity of HRD work in the country.

"There is discrimination because I am a woman, of course, but there are other factors that can lead to discrimination against you, for example, the place or region you come from, your ethnicity, what your social class is and what privileges you have." - WHRD, Khartoum.

192 Human Rights Council, “Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya,” UN Doc. A/HRC/25/55, 23 December 2013, see A. Conducive legal, institutional and administrative framework.

193 A term coined by professor Kimberlé Crenshaw, in: Crenshaw, Kimberlé, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, University of Chicago Legal Forum: Vol. 1989: Iss. 1, Article 8, <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8> (accessed 8 June 2021).

194 Office of the UN High Commissioner for Human Rights, Women’s Rights are Human Rights, Geneva and New York: United Nations Publication, 2014, ISBN: 978-92-1-1-154206-6, pp. 30-33; 37-39, <https://www.ohchr.org/documents/events/whrd/womenrightsarehr.pdf> (accessed 25 June 2021). Office of the UN High Commissioner for Human Rights, “Manual on Human Rights Monitoring; Chapter 28: Monitoring and Protecting the Human Rights of Women,” Geneva: United Nations, 2011, Ref. HR/P/PT/7/Rev.1, pp. 13-15, https://www.ohchr.org/Documents/Publications/Chapter28_MonitoringAndProtecting.pdf (accessed 25 June 2021).

195 Human Rights Council, “Situation of women human rights defenders: Report of the Special Rapporteur on the situation of human rights defenders,” UN Doc. A/HRC/40/60, 10 January 2019, para. 6, <https://digitallibrary.un.org/record/1663970?ln=en> (accessed 25 June 2021).

Sudan is home to over 42 million people of diverse ethnicities and religions, as well as hundreds of languages and dialects. The latest population figures show that 50.04% of the population are women.¹⁹⁶ The rural population accounts for 65%. Of the population, 12.5% are living under the poverty line of \$1.90 USD per day.¹⁹⁷ It is estimated that approximately 70% of Sudanese people are characterised (or self-identify) as Sudanese Arabs and 30% as Black Africans, which includes Nuba, Fur, Beja and Fallata ethnic groups.¹⁹⁸ Throughout the al-Bashir regime, attacks on civilians amounting to international crimes were carried out against ethnic minorities in Darfur, South Kordofan, Blue Nile, and areas that are now part of South Sudan.

The 57 years of British colonial occupation, and its “divide and rule” policy, helped entrench discrimination and inequality. The British colonial administration invested in the Arab north and reinforced a development gap between the north and the south/south-west. Following Sudan’s independence in 1956, the north of Sudan maintained its political and economic dominance over the south, a dynamic that has been a key driver of armed conflict and political repression. Civil society has been shaped by the ethnic, religious, and class dynamics that permeate Sudanese society. The HRDs with the largest platforms and most amplified voices are mostly from Khartoum and the surrounding areas, which enjoy better access to education and opportunities. The rural-urban and north-south divide in civil society can intersect with other factors at play in the lives of HRDs and WHRDs.

In discussions with interviewees, two main factors were raised: ethnicity/race and sexual orientation and gender identity.

Ethnicity

The constructs of ethnicity and race play an integral role in society in Sudan and have shaped the conflicts that continue to this day. The Arabisation of the north of Sudan, coupled with the Islamisation, created a dominant Sudanese identity that was instrumentalised by the al-Bashir regime in the campaigns to Islamise southern Sudan.

¹⁹⁶ World Bank, “Population, female (% of total population) – Sudan,” 2019 Revision, <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=SD> (accessed 8 June 2021).

¹⁹⁷ UNESCO, Sudan, <http://uis.unesco.org/en/country/sd> (accessed 8 June 2021).

¹⁹⁸ Minority Rights Group, Sudan, June 2019, <https://minorityrights.org/country/sudan/#:-:text=Approximately%2070%20per%20cent%20of,within%20the%20borders%20of%20Sudan> (accessed 8 June 2021).

After the Revolution, the Transitional Government publicly engaged in a peace process with armed groups in Darfur and other conflict-affected areas. However, the political transition in Khartoum did not mean the end of difficulties in conflict areas, where minorities have long been targeted. In 2020, Sudan ranked eighth in the world on the Minority Rights Group International's "Peoples Under Threat" list, which monitors countries most at risk of genocide and mass killing.¹⁹⁹ This shows that despite the changes that the Revolution brought about, ethnic minorities in Sudan are still at risk.

*" In addition to being discriminated against because I am a woman, there is discrimination against me based on the region from which I come."
- WHRD, Khartoum.*

HRDs and civil society actors who are from ethnic minorities in Sudan may face discrimination in their day-to-day lives, including at work. The discrimination can interfere with their ability to speak out,²⁰⁰ conduct activities,²⁰¹ and access opportunities.²⁰² WHRDs face the double burden of being discriminated against because of being a woman, and due to their ethnicity.²⁰³ One WHRD, when talking about the discrimination she faces as a woman, stated that she felt "lucky" that she was from the north of Sudan, because if she belonged to another ethnic group she would also have to deal with this discrimination. Displaced persons, including IDPs, refugees, and asylum-seekers are among some of the most marginalised groups globally. In Sudan, the majority of the 2,399,433 IDPs are from Darfur and Kordofan²⁰⁴ and around 70% of the refugee population of 1,106,59²⁰⁵ are from South Sudan. The marginalisation of these populations is intrinsically linked with their identity, whether adopted or assigned, as Black Africans. HRDs who work for these communities, or belong to them, faced different kinds of discrimination than those who do not. For this research, six HRDs (3 male and 3 female) working on refugee, IDP, and statelessness issues were interviewed. Of these HRDs, half had experienced physical threats and five had experienced verbal threats. Both figures are higher than the general population of HRDs (46% and 67%, respectively) – although the sub-sample is modest.

¹⁹⁹ Minority Rights Group, Peoples Under Threat – Sudan, 2020, <https://peoplesunderthreat.org/countries/sudan/#0> (accessed 8 June 2021).

²⁰⁰ Interviewee no.8, January 2021.

²⁰¹ Interviewee no.19, January 2021.

²⁰² Interviewee no.34, April 2021.

²⁰³ Human Rights Council, "Situation of women human rights defenders," op. cit.

²⁰⁴ International Organization for Migration, "Sudan – Mobility Tracking Round 1 (July 2020)," 7 July 2020, <https://displacement.iom.int/reports/sudan-%E2%80%94-mobility-tracking-round-1-july-2020> (accessed 8 June 2021).

²⁰⁵ UNHCR, Overview of Refugees and Asylum-seekers in Sudan Dashboard as of 31 March 2021, 18 April 2021, <https://data2.unhcr.org/en/documents/details/86095> (accessed 8 June 2021).

In addition to facing more threats, HRDs working on these issues and from these populations also reported feeling more left out of civil society since the Revolution. One HRD working on refugee rights in Khartoum stated that there was “no interest” in refugee issues.²⁰⁶

Others pointed to the heavy-handed treatment and “clear lack of recognition of people and their rights” in southern states,²⁰⁷ including during community protests in Talodi, South Kordofan against gold mines using toxic substances.²⁰⁸

The historic wealth divide between northern, predominately Arabic-speaking areas and southern, predominately Black African areas, reflects decades of under-development in the southern parts of the country (including today’s independent South Sudan). This has limited their access to education, and professional work. People from less developed areas across Sudan generally have fewer formal educational opportunities and were less represented in the Transitional Government, despite their efforts during the Revolution. The Juba Peace Agreement sought to remedy this by adding representatives of armed movements to the government.

Women living in areas affected by higher poverty rates, in conflict, or who are displaced generally have less access to higher education and thus formal work opportunities in civil society. A recent study on trends in university admissions in Sudan found that the more developed north had higher rates of female students, while the less developed south and west had lower rates.²⁰⁹

Therefore, intersectional analysis is essential for the women’s rights movement. Currently, feminists in Sudan are struggling to have even the voices of upper-class, urban, Arab women from Khartoum taken seriously, let alone the voices of more marginalised groups, who often lack capacity.

²⁰⁶ Interviewee no.17, January 2021.

²⁰⁷ Interviewee no.9, January 2021.

²⁰⁸ Dabanga Sudan, “South Kordofan anti-mining protesters clash with security forces,” 6 October 2019, <https://www.dabangasudan.org/en/all-news/article/south-kordofan-anti-mining-protesters-clash-with-security-forces> (accessed 8 June 2021).

²⁰⁹ Hamid, M, Thron, C, Fageeri, S, Status and trends in university admissions for women in Sudan: A graphical data analysis, *Social Sciences & Humanities Open*, Volume 2, Issue 1, 2020, <https://www.sciencedirect.com/science/article/pii/S2590291120300656> (accessed 8 June 2021).

Sexual orientation and gender identity (SOGI)

The Sudanese Revolution has been applauded for being an inclusive and unified movement. However, tolerance is usually not extended to those who speak out about SOGI issues,²¹⁰ including LGBT+ HRDs/WHRDs and HRDs/WHRDs working on these issues. When asked about the most difficult issue to publicly work on in Sudan, many interviewees pointed to SOGI-related work.

The now dissolved Transitional Government's legal reform efforts included amending Article 148 of the Criminal Law Act to remove mandatory death penalty and punishment of lashing for same-sex acts; however, the Article still carries a punishment of up to seven years in prison. Under Article 151 of the Criminal Law Act, "gross indecency" is criminalised with a punishment of up to one or two years in prison. The amendments also removed the punishment of lashing from Article 151; however, the provision remains and has been used to directly target SOGI community.²¹² In addition to restrictive laws and conservative societal attitudes in Sudan,²¹³ the state also has a history of supporting anti-SOGI movements on the international stage. DefendDefenders' research on patterns at the HRC show that Sudan opposed resolutions on SOGI, and conversely has supported resolutions on "protection of the family" and "defamation of religions," which promote harmful stereotypes of women and girls and justify violations against women and the SOGI community.²¹⁴

"I get the reaction that some people do not want to work with me because I'm an LGBTQ+ rights ally, even though I did not even bring up that topic." - WHRD, Khartoum.

²¹⁰ Chr. Michelsen Institute, "Blog from Sudan: The Sudanese Revolution: A fight for LGBTQI+ Rights?."

²¹¹ ILGA, "Pan Africa ILGA welcomes the decision by the government of Sudan to remove the death penalty as a punitive measure for homosexuality," 16 July 2020, <https://ilga.org/sudan-removes-death-penalty-same-sex-relations> (accessed 8 June 2021).

²¹² Gay Star News, "Police in Sudan arrest and beat nine gay men," 25 February 2013, <https://www.gaystarnews.com/article/police-sudan-arrest-and-beat-nine-gay-men250213/> (accessed 8 June 2021).

²¹³ 500 Words Magazine, "LGBTQ+ Coming Out of Sudan," 31 March 2019, <https://500wordsmag.com/social/lgbtq-coming-out-of-sudan/> (accessed 8 June 2021).

²¹⁴ DefendDefenders, "Making a difference for women and girls?," op. cit.

Being a vocal member, or ally of, the SOGI community continues to be stigmatised not only by the authorities and the public, but also within the HRD community. One SOGI HRD stated that they acknowledged that civil society, and society more generally, was opening up in Sudan and that as a result they could talk more directly about SOGI issues. However, when it came to directly advocating for SOGI rights, the movement was largely unrecognised, even within civil society, leaving them marginalised: “The queer movement is not recognized by civil society, so there are no possible alliances to create pressure or create a bigger advocacy movement or a lobbying strategy.”²¹⁵

The sensitivity of working on SOGI issues was highlighted by a WHRD who stated that the community had to work alone, or to work “with people who cannot comprehend the sensitivity of the topic.”²¹⁶ Thus, the community often found themselves between a rock and a hard place, eager to expand their movement by making allies, but afraid to do so due to privacy and security concerns. In this regard, advocacy by international allies and groups may even be counter-productive for Sudanese HRDs working on these issues, as it may lead domestic actors to promote the narrative that SOGI rights is a “foreign” or “Western” agenda.

"If you are a young WHRD defending things that go against their [civil society] conservative agenda, you will not find the same opportunities at all. They are gatekeepers." - WHRD, Khartoum.

²¹⁵ Interviewee no.12, February 2021.

²¹⁶ Interviewee no.15, February 2021.

However, one should note that major donors and humanitarian agencies are often afraid to tackle sensitive topics in the public domain, or do not understand the movement in the context of Sudan: “Donors are completely oblivious to the fact that some bodies have been (working on) [SOGI] rights for a decade.”²¹⁷ As with the feminist movement in Sudan, SOGI HRDs felt that donors were quick to dictate a certain agenda, or style, on the movement without having worked on the ground themselves. One WHRD stressed the importance of focusing on national advocacy for this reason, as international advocacy, and involvement “just creates noise.”²¹⁸

The inability of LGBT+ organisations to officially register, due to security and safety concerns, also restricts their access to funding and wider networks and violates Article 57(1) of the Constitutional Document, concerning the right to “free organisation.”

Many HRDs interviewed for this research acknowledged that Sudan had become more open after the Revolution, and that ideas and communities that had been unheard of, or on the fringes of society, were becoming more well-known and given more space. HRDs spoke of having more confidence to carry out their work and a renewed hope for change: “There is noticeable change and wider freedom and spaces; now we can criticize the situations and violations that happen without fear.”²¹⁹ It was frequently mentioned that a recent positive development was the general public knowing more about human rights and women’s rights, and that this sometimes created a more positive response and appreciation for the work of HRDs and WHRDs. However, this research found that support and tolerance was often only afforded in certain situations or for certain groups. Feminism and SOGI issues are still considered to be “taboo” within Sudanese society, including the HRD community itself. WHRDs who are from lower classes, ethnic minorities, and/or belong to the SOGI community face multiple and intersecting forms of discrimination, harassment, and threats.

²¹⁷ Interviewee no.12, February 2021.

²¹⁸ Interviewee no.15, February 2021.

²¹⁹ Interviewee no.7, July 2020.

They must choose what they will speak about or work on carefully, as they risk losing support from the public and civil society if they embrace certain issues too openly.

The calls for inclusion heard during the Revolution did not translate to the transitional phase, as diversity within the government and civil society remained weak.

The women who were involved in decision-making spaces were overwhelmingly upper middle-class, tertiary-educated women from northern Sudan who do not work on SOGI issues. The lack of inclusion of diverse voices is related to the still predominant conservative and patriarchal values.

However, civil society stands to lose in the long run if meaningful inclusion of all defenders, activists, and communities is not ensured. The success of the popular protest movement during the Revolution, which was fuelled and supported by women, ethnic, and sexual minorities, and other marginalised groups, should be remembered as Sudan attempts to transition to a more rights-respecting regime.

The 25 October military coup is likely to result in additional challenges for those working on women's rights and SOGI issues.

NEEDS OF THE HRD COMMUNITY

One of the aims of this report was to better understand the needs of HRDs, in particular WHRDs, and civil society in Sudan, so that DefendDefenders and other regional and international organisations can better plan their interventions, eliminate overlaps, and bring their technical support and expertise where needed. To gain a deeper understanding of their current circumstances, the interviewers asked all HRDs about their ability to access protection and support mechanisms. They asked WHRDs specifically about their needs as women HRDs.

When asked whether they had access to protection and support mechanisms, 67% of the interviewees who responded stated that they did not. This figure suggests that most HRDs are working without the knowledge that if the risks they face materialise, they will be able to receive help. Such knowledge could help them build their capacity and resilience and minimise their vulnerability to risks of persecution, ahead of and during their work.

Those who did mention that they had some access to protection said that they had been able to receive help from regional and international groups, such as DefendDefenders and Front Line Defenders. One HRD noted that they enjoyed protection through the organisation that they work for. Several HRDs mentioned that the only protection mechanisms they had access to, or found reliable, were their personal connections or solidarity in groups.

"The old state was violating our rights, the new state still has not created anything to protect us as WHRDs or for HRDs in general. For me, official support is still absent, and access to such mechanisms is not available." - WHRD, Khartoum.

As demonstrated in the table below, a majority of WHRDs who responded to the question concerning their needs felt that the most vital need is protection from state and non-state actors. This supports the above conclusion that the general population of HRDs struggle with access to protection and support mechanisms. The second most important need was capacity building and networking, a need that was consistently mentioned as essential for greater engagement of civil society outside of Khartoum.

List of needs**Total of WHRDs who chose as most important***

Capacity Building	4
Networking	1
Funding	4
Participation in Processes	2
Protection from state/Non-state Actors	11
Recognition/Legitimisation	1
Respect for Rights	1
Total no. WHRDs	24

The above list displays the “most important” need selected by WHRDs -when asked to choose one. However, many interviewed HRDs discussed a range of needs, many being deemed as important.

During the discussion about protection and support mechanisms, some HRDs spoke about various precautionary and preventative measures that they have taken. Several HRDs spoke about digital security and measures to ensure that they work safely online, keep their data protected, and use safe networks and communication channels. Others stated that they are able to work in secrecy or with discretion, so that even those close to them do not know the details of their work. In addition, other HRDs mentioned that they knew lawyers or legal networks that could help them if they were arrested or detained.

In the absence of national and state-supported independent protection and support mechanisms, it is unsurprising that HRDs have found their own ways of mitigating risks. While there is no replacement for reliable national mechanisms, having a working system in Sudan will take time and cooperation from all stakeholders, including relevant authorities at all levels of government.²²⁰ Another way of ensuring that HRDs mitigate risks is to make sure they have access to capacity building, including training and equipping, of HRDs in essential security skills, such as personal, digital, and organisational security, including, and starting with, individual security and organisational assessments and audits. This will allow for HRDs and organisations to protect themselves, to some extent, and may mitigate some of the risks they face.

²²⁰ Human Rights Council, “Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya,” UN Doc. A/HRC/25/55, 23 December 2013, see C. Strong, independent and effective national human rights institutions.

Additionally, there is need for a greater, concerted effort by the international community to continue to engage with Sudan on issues of rights violations. Many international actors support a return to the Transitional Government. However, some of the patterns of violations and abuses committed under the al-Bashir regime continued, with fewer, less frequent condemnation from the international community as the latter reengaged with the Sudanese authorities. This left Sudanese HRDs in a state of limbo – not yet protected enough to not need support from outside of Sudan. The 25 October 2021 military coup is likely to lead to further human rights violations. International scrutiny of the situation and support to HRDs and WHRDs is vital.

Physical and digital safety capacity building for WHRDs from Kordofan

For the first time in Sudan, DefendDefenders in collaboration with local partners in Sudan (Andariya and Safe Sisters) held a five-day training on physical and digital safety for 14 WHRDs from Kordofan. This training is the first of its kind to be carried out in Sudan for WHRDs. Sudanese

WHRDs, especially those working in Kordofan, have experienced many challenges over the past thirty years, including war and violence, including SGBV. During this training, WHRDs acquired knowledge and skills in physical and digital safety, including context analysis, risk and threat assessments, security plan development, and self-defense.



Thanks to the training, the WHRDs

are now able to carry out risk assessments. They drafted action plans for individual and organisational safety, and formed an association for WHRDs in Kordofan.

“The workshop helped me develop my knowledge of human rights and how to protect myself, my family, and the victims I work for. Thanks to this workshop, I became an effective and more efficient person to serve my community” – WHRD, Kordofan.

CONCLUSION

The question: “what comes next for Sudan?” is on the lips of many, both within and outside the country. The road ahead for human and women’s rights is going to be long and difficult. Lasting progress will require resilience and determination. WHRDs have a key role to play, and can be instrumental, in building a new democratic, rights-respecting Sudan.

Under the transition, until the 25 October 2021 military coup, HRDs and WHRDs in Sudan continued to face many of the same issues that they faced before 2019: multifaceted threats to their person and work; little to no access to protection and support mechanisms; difficulties in registering and receiving funding; and lack of capacity. While the source of some of these threats shifted, WHRDs continued to face multiple and intersecting risks and threats. The responsibility to protect civil society actors ultimately lies with government authorities, as primary duty-bearers, including since 25 October 2021 de facto authorities exercising control over government agencies and forces.

Structural change has not materialised. There has been little progress in the actual implementation of legal reforms, especially in non-urban areas. Abusive security forces are yet to be restructured and perpetrators of violations against HRDs are yet to be held to account. Under the transition, little was done to create an environment more conducive for the promotion and protection of all human rights for all, in particular women’s rights. Sudanese WHRDs need regional and international support more than ever. Civil society is not exempt from the patriarchal attitudes that are prevalent in Sudanese society. As a result, WHRDs often face discrimination even within activist circles. The under-representation of WHRDs in the Transitional Government, SC, and key decision-making spaces, amounted to a missed opportunity. In neglecting to meaningfully include diverse groups of women, transitional institutions missed out on their expertise and understanding of the daily realities that women face in Sudan.

While decisions such as accession to the CEDAW should be applauded, it must be questioned what the usefulness of an international legal instrument will be to women in Sudan, who are still greatly disadvantaged in national law, policy, and society. Domestication will be key, but awareness-raising, human rights education, training of civil servants and other officials and authorities, and other actions designed to foster changes in societal attitudes and practices will be as key.

Communities who are already marginalised in Sudan, including lower classes, minority ethnic community members, and members of the LGBT+ community, are least likely to have felt the positive effects of the Revolution. Even though the Revolution opened the doors for many groups to come together and be more vocal in protests than ever before, its spirit has largely failed to translate into the transitional period. In particular, the LGBT+ community struggles to find allies who are willing to take risks (in particular, reputational risks) to work with them, or who understand their cause.

The 25 October 2021 military coup is likely to have no positive impact on these issues. Conversely, it is likely to lead to further violations and abuses. Direct support for HRDs, in particular WHRDs, in Sudan will remain vital for the foreseeable future. International and regional actors should continue to engage with and support civil society in Sudan, especially focusing on improving access to protection mechanisms, advocacy with authorities to improve in-country protection and accountability for perpetrators of violations and abuses, and increased capacity building for more diverse groups of WHRDs. Meeting these needs would give more tools to HRDs, particularly WHRDs, to protect themselves and contribute to change.

RECOMMENDATIONS

With these considerations in mind, DefendDefenders urges a full return to the transition process, reinstatement of transitional institutions as per the 2019 power-sharing agreement and Constitutional Document, and a swift transition to full civilian rule. We offer the following recommendations, stressing that they in no way amount to recognising the legitimacy of the de facto military authorities:

To the Sudanese authorities, including de facto military authorities following the 25 October 2021 coup:

Regarding human rights defenders, civil society, and civic space:

- Publicly recognise the vital role human rights defenders play in Sudan and implement all provisions of Resolutions ACHPR/Res.119 (XXXII) 07 and ACHPR/Res.196 (L) 11 on the protection of human rights defenders; and ACHPR/Res.69(XXXV)03 and ACHPR/Res.273 (LV) 2014 on the mandate of the Special Rapporteur on human rights defenders in Africa;
- Pay specific attention to the situation, challenges, and risks facing women human rights defenders, including multiple and intersecting forms of violence and discrimination, including by implementing all provisions of 336 Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders ACHPR/Res.336(EXT.OS/XIX)2016;
- Ensure that independent and effective protection mechanisms are in place for human rights defenders that are easily accessible, and strengthen accountability mechanisms for reporting and investigating violations, including by
 - adopting a law on the protection of human rights defenders in order to create a national legal framework for their effective functioning;
 - publicly recognising and pledging to support human rights defenders and protect them from threats, violence, human rights violations, and violations of due process, and pledging to specifically address challenges facing women human rights defenders, including intersecting threats and risks; and
 - fully respecting citizens' rights to freedom of peaceful assembly, association, expression, and participation in public affairs;

- Recognise the right of civil society organisations to operate freely; pursuant to the African Commission on Human and Peoples' Rights Guidelines on freedom of association and assembly in Africa, civil society organisations should not be compelled to register in order to be allowed to exist and to operate, and informal (de facto) associations should not be criminalised on the basis of their lack of formal status;
- Immediately cease violations of civic space rights, including the use of excessive and lethal force against protesters and other restrictions to the exercise of the right to freedom of peaceful assembly, as well as the harassment of human rights defenders, journalists, civil society organisations and actors, and hold those responsible, including at the command responsibility level, to account; and
- Conduct thorough reviews of all security and armed forces, including law enforcement bodies, to ensure knowledge of international and national legal obligations toward civilians, including protesters and human rights defenders. Human rights training should be mainstreamed into security sector reform, and thorough vetting processes should be included in any Disarmament, Demobilisation and Reintegration programmes.

Regarding legal reform:

- Repeal the Voluntary and Humanitarian Work (Organization) Act, which gives wide-ranging powers to the Humanitarian Aid Commission to restrict the work of civil society, and work with civil society to create a new system of registration for civil society organisations;
- Repeal the Personal Status Law, which discriminates against women, and include women human rights defenders in the drafting of new family laws in line with international standards on women's rights and gender equality;
- Take immediate measures to complete accession to the Convention on the Elimination of Discrimination against Women, including domestication, implementation, and review of existing national law in line with the Convention, and withdraw the reservations made; and
- Ratify the Optional Protocol to the Convention on Elimination of all forms of Discrimination Against Women.

Regarding gender equality:

- Commit to greater inclusion of women in all government institutions, aiming to achieve 50% gender balance; and
- Commit to greater diversity of gender, class, and ethnicity in decision-making spaces, including in government and public bodies.

To the African Union and the African Commission on Human and Peoples' Rights:

Publicly recognise and support, through a new resolution, human rights defenders in Sudan, including women human rights defenders, and highlight their role in the transitional period and in the objective of transitioning to civilian rule; and

continue monitoring the situation in Sudan to ensure adherence to African Union and international law. The Rapporteur of the African Commission on Human and Peoples' Rights in charge of Sudan should request a visit to the country at the earliest opportunity.

To United Nations bodies and mechanisms, including the United Nations Human Rights Council:

- Ensure long-term scrutiny of Sudan's human rights situation following the 25 October 2021 coup and the special session the Human Rights Council held on 5 November 2021;
- Continue supporting the country office of the Office of the UN High Commissioner for Human Rights in Sudan, as well as its field offices; and
- The Human Rights Council should extend its support to, and scrutiny of, Sudan through reporting by the Office of the UN High Commissioner for Human Rights on the work and activities of the country office and the human rights situation, and hold public debates on Sudan, in the form of enhanced interactive dialogues, and, depending on the situation, it should consider establishing an investigative mechanism such as a fact-finding mission.

To other governments:

- Publicly recognise and support human rights defenders in Sudan, including women human rights defenders, and highlight their role in the transitional period; and provide financial and other forms of support to Sudanese human rights defenders and women human rights defenders, in line with the analysis outlines in this report;
- Publicly address ongoing violations to women's, civic space, and human rights; and
- Urge government authorities to increase inclusion of women throughout, aiming to achieve 50% gender parity.

To international civil society:

- Increase solidarity, networking and coordination between organisations in Sudan, and those who wish to support from outside, to share experiences with human rights defenders;
- Support human rights defenders, especially women human rights defenders in Sudan, by ensuring access to protection mechanisms and focusing on capacity building of underrepresented groups within civil society;
- Pay attention to diversity of gender, ethnicity, and sexual orientation and gender identity when working work with Sudanese civil society.

To human rights defenders:

- Continue to engage in the promotion and protection of all human rights in Sudan, including by monitoring developments, reporting on the situation, and engaging in capacity building, awareness-raising, civic education and advocacy activities, among others;
- Prioritise diversity of gender, ethnicity, and sexual orientation and gender identity, within civil society organisations, activities, and representation; and
- Seek relevant technical, financial, and other forms of assistance from national, regional, and international actors regarding all dimensions of their work.

ANNEX: SUPPORT MECHANISMS AND RESOURCES FOR HRDS

Below is a list of organisations that HRDs can contact for protection, financial support, legal aid, or capacity building. Support mechanisms and projects for HRDs and urban refugees are subject to continuous change due to funding limitations and evolving priorities. This is not an exhaustive list. Please note that it is always best to look for updated information when the need arises, and to contact these organisations directly to discuss specific needs.

Support Mechanisms for HRDs

For a detailed list of resources for HRDs, visit our website:

<https://defenddefenders.org/about-us/about-us/resource-directory/>

Physical and digital safety resources

Security manuals

“Stand Up! Security Manual for African Human Rights Defenders” is DefendDefenders’ organisational and personal security manual to help HRDs do their work in a safe and effective manner. Book One covers personal, physical, and organisational security planning. Book Two addresses digital security for electronic devices, and online accounts and communications.

Download it here: <https://www.defenddefenders.org/wp-content/uploads/2017/09/StandUpfeb.pdf>

The key points of the “Stand Up!” manual can also be found in the “Security in your pocket” brief

- Download in English: https://www.defenddefenders.org/wp-content/uploads/2018/08/SecurityInYourPocket_English.pdf
- Download in French: https://www.defenddefenders.org/wp-content/uploads/2018/08/SecurityInYourPocket_French.pdf
- Download in Arabic: https://www.defenddefenders.org/wp-content/uploads/2018/08/SecurityInYourPocket_Arabic.pdf

Other useful manuals are Protection International’s “New Protection Manual for Human Rights Defenders,” available in English and French

(<https://www.protectioninternational.org/en/node/1106>) and Front Line Defenders’

“Workbook on Security: Practical Steps for Human Rights Defenders” at Risk

(<https://www.frontlinedefenders.org/en/resource-publication/workbooksecurity-practical-steps-human-rights-defenders-risk>).

Digital safety learning resources

Digital First Aid Kit (<https://www.digitaldefenders.org/digitalfirstaid/>) aims to provide preliminary support for people facing the most common types of digital threats. The Kit offers a set of self-diagnostic tools for HRDs, bloggers, activists and journalists facing attacks themselves, as well as providing guidelines for digital first responders to assist a person under threat.

“Surveillance Self-Defence” (<https://ssd.eff.org/>) is Electronic Frontier Foundation’s guide to defending yourself from surveillance by using secure technology and developing careful practices. Umbrella (<https://secfirst.org/umbrella>) is an app available for Android phones which functions as a security handbook in your pocket. It can be used to review information relevant to your own situation and use their built-in checklists to stay safe when facing risks.

Access Now digital security helpline

The Digital Security Helpline is a free resource for civil society around the world. It offers real time, direct technical assistance and advice to activists, independent media, and civil society organisations, including:

- Rapid response on digital security incidents.
- Personalised recommendations, instructions, and follow-up support on digital security issues.
- Help assessing risks and creating organisational or community security strategies.
- Guidance on security practices and tools for organisations, communities, groups, and individuals.
- Support for securing technical infrastructure, websites, and social media against attack.
- Referrals, capacity-building, in-person consultations, and training; and
- Education materials in multiple languages.

The Digital Security Helpline is operated by a global team who are available 24/7, responsive to incidents in a rapid, efficient, and uniform manner, and multilingual (fluent in English, Arabic, French, Spanish, Portuguese, and Filipino). Contact them at: help@accessnow.org

DefendDefenders digital safety helpline

If you encounter suspicious emails, file attachments, links, instant messenger behaviour, or computer behaviour which you suspect may be related to a digital safety threat against you, contact helpline@defenddefenders.org or send a message to +256 787556560 (Signal, WhatsApp) for digital safety advice, analysis, and referral. Support is available in English, French, Luganda, Kinyarwanda, and Kirundi.

Defenddefenders (the East and Horn of Africa Human Rights Defenders Project) seeks to strengthen the work of HRDs throughout the subregion by reducing their vulnerability to risks of persecution and by enhancing their capacity to efficiently defend human rights.

Defenddefenders is the secretariat of EHAHRD--Net, a network of 78 human rights organisations in the eleven countries of the East and Horn of Africa subregion. Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.



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