



Bullet or hunger: The urgent need to protect the Sudanese and South Sudanese people affected by the armed conflict

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Abstract: Parties of the Sudanese armed conflict continue to violate fundamental norms of international humanitarian law and human rights law, resulting in mass civilian casualties, with two dangerous choices: remaining in the bullet zones or fleeing to other countries and risking to die of hunger.

The [non-international armed conflict](#) between the Sudanese Armed Forces (SAF) led by General Abde Fattah Al-Burhan and the Paramilitary Rapid Support Forces (RSF) led by General Mohammed Dagalo (known as 'Hemedti') started in April 2023. [Al-Burhan](#) is a commander who attended the Sudanese Military College, rose through the ranks, and became the chief of staff in 2018 before becoming the *de facto* head of state. On the other hand, [Hemedti](#) is a former trader turned army commander. Because of his track record dealing with belligerents, he was

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appointed by President Bashir as head of the Paramilitary Rapid Support Forces in 2013.

However, in 2019, Hemedti and al-Burhan united their forces and [toppled](#) the decades-long-serving President Mr Omar Al Bashir, a man responsible for serious human rights violations in both Sudan and then Southern Sudan, and brought Hamdok on board. Hamdok is a trained economist and a former United Nations employee who became part of the [power-sharing](#) agreement as Prime Minister of the Republic of Sudan, heading the cabinet with Burhan as President of the Transitional Sovereign Council and with Hemedti as deputy to Burhan. After recurring protests from pro-democrats and the turn of events, Hamdok [resigned](#). Following his resignation, infightings started between the two generals over who should single-handedly rule Sudan.

It is worth highlighting that, besides sharing a border, Sudan and South Sudan have a historical relationship that can be described as between the former oppressor and the former oppressed. Consequently, a substantial number of South Sudanese have adopted the cultures and lifestyles of the Sudanese. As such, most Sudanese and South Sudanese see themselves as Sudanese in two different countries and welcome each other when there is a disaster. For example, when the South Sudanese armed conflict ensued, [Sudan hosted](#) many refugees from South Sudan. Moreover, in 2018 the Sudanese government under President Bashir played a [crucial role](#) in ensuring peace in South Sudan. These acts are being reciprocated as South Sudan [hosts many refugees](#) from Sudan in addition to welcoming many returnees. Furthermore, the Intergovernmental Authority on Development (IGAD), aware of the relationship between Sudan and the members of the regional bloc, has tasked [President Kiir](#) and others to bring the warring parties to the table.

The disastrous impact of war

Seven months since the unfolding fighting erupted in Sudan, the violations of fundamental international norms of international humanitarian law and human rights law therein remain unabated, and the lack of urgent interventions to prevent further abuses continues to aggravate the conditions of those affected.

The ongoing armed conflict continues to result in serious human rights abuses, such as [right to life](#) as many civilians are killed and the right to health as civilians are [displaced](#) to areas where their health is compromised and are subject to hunger crisis. Generals Burhan and Dagalo seem to have followed the man they overthrew in their acting with complete disregard for human rights. Their armed forces SAF and RSF are [using weapons](#) that kill civilians indiscriminately in the capital of Sudan. Since the beginning of such a deadly conflict, most Sudanese and South Sudanese have chosen to flee to neighbouring countries. However, those who made it to other countries did not escape hell to heaven due to the [hunger crisis](#) and adverse effects of climate change.

In this regard, the two countries are similar in different forms. South Sudan is coming [out of conflict](#) and is deeply affected by the consequences of [climate change](#).

Hence, the refugees and returnees from Sudan have moved into a country where the conflict has completely affected and reset the way of life, with climate change exacerbating the people's living conditions. Conversely, Sudan is under an ongoing armed conflict between its military and a paramilitary group, plunging the country into one of the worst humanitarian nightmares in recent history. Deaths from bullets are frequent in addition to [2.5 million people](#) expected to face hunger.

Pathways to improve the protection of the persons affected

The conflicting parties of the ongoing armed conflict in Sudan must end it and ensure the principle of respect for human dignity and the principle of the inviolability of fundamental international norms of international humanitarian law and human rights law, which constitute expressions of the first principle. In such a context, the following points can be argued.

a) Bringing ongoing IHL violations to an end and to prevent IHL violations

Sudan is a state party to the [Geneva Conventions](#) (GCs) and their [Additional Protocols \(APs\)](#). Common [article 3](#) of the GCs proscribes the parties to the armed conflict from committing 'violence to life and person'. Similarly, article 4 of AP II also 'prohibits violence to life, health...'. Regrettably, the armed forces of al-Burhan and Dagalo have [flagrantly violated](#) these provisions. The two opposing parties should cease such violations. Furthermore, there is a need to stop employing weapons that indiscriminately kill people, especially in a city like Khartoum, in order to protect civilians' right to life.

Additionally, [article 23](#) of the Fourth Geneva Convention requires state parties to allow 'free passage of all consignments of essential foodstuffs'. Undoubtedly, this provision applies to an international armed conflict. However, the customary rules of international humanitarian law explicitly indicate that article 23 also applies to armed conflicts not of an international character. Therefore, the parties to the Sudanese conflict are required by the aforesaid provision to allow free movement of organisations to reach out to the people trapped in their houses in Khartoum without foodstuffs to avoid further violation of their right to life and health.

At the level of the international community, there should be no international support for either party. Saudi Arabia's [alleged support](#) to Burhan and the United Arab Emirates' alleged [backing of Dagalo](#) must end immediately and, instead, condemn the actions of both parties and encourage dialogue to avoid further violations of international humanitarian law and human rights law. Notably, the actions of these third parties clearly violate [article 1](#) of the Fourth Geneva Convention, which requires state parties 'to respect and to ensure respect for the Convention'. Thus, even if a state party is respecting this treaty, it must also take measures to ensure that other state parties do so.

b) Cooperating with relevant international mechanisms

The [International Criminal Court](#) (ICC) should consider adopting measures holding commanders of the two forces responsible. By relying on the existing United

Nations Security Council referral of 2005 ([resolution 1593](#)) which limits its jurisdiction to the Darfur region and led to the indictment of President [Bashir](#), this Court has [commenced investigations](#) in relation to the incidents occurring in the context of the present hostilities, tracking reports of extrajudicial killings, burning of markets and homes, and looting in Al Geneina (capital of West Darfur), as well as the killing and displacement of civilians in North Darfur and other locations across Darfur, and also examining allegations of sexual and gender-based crimes, including mass rapes and alleged reports of violence against and affecting children.

In this context, notably the ICC Prosecutor [stressed](#) that

It's essential that those involved in hostilities extend genuine communication and genuine meaningful cooperation with my Office, both in relation to the current hostilities that we're investigating and also in respect to the previous crimes committed in Darfur. And we will be redoubling efforts to make sure that we can penetrate any obstruction that we face.

While the ICC is encouraged to expand its investigations to areas beyond Darfur, the members of the United Nations Security Council should refer alleged atrocity crimes committed by the aforementioned two commanders to the ICC Prosecutor by passing a new resolution under the UN Charter.

c) Advocating for stronger regional mechanisms

The African Union (AU) needs to effectively intervene in the Sudanese armed conflict and ensure that the aforementioned violations cease. The Peace and Security Council (PSC) established by the African Union Protocol focuses on various issues related to peace and has a mandate under article 6 of the Protocol, which has to be read together with article 4(h) and (j) of the Constitutive Act to support peace operations and intervene in situations where there are serious breaches of international humanitarian and human rights norms. It is therefore argued that, since the actors of the Sudanese armed conflict lack legitimacy from the Sudanese people and are committing serious violations, AU should intervene through PSC in Sudan in order to avoid further violations. Moreover, since PSC has the mandate to ensure 'humanitarian action and disaster management', it must take serious measures to facilitate humanitarian access in Khartoum and all the affected cities.

d) Tackling the refugee crisis

As a member of the international community, South Sudan has a bigger role to play. It has a huge number of returnees from Sudan besides hosting many Sudanese refugees. South Sudan should carefully implement the provisions of the Kampala Convention and the Convention Governing the Specific Aspects of Refugee Problems in Africa in order to address the plights of refugees and returnees. This is because South Sudan is a state party to these useful conventions. The former protects the rights of internally displaced persons whereas the latter protects the rights of refugees.

In this case, it is argued that the Kampala Convention applies to the South Sudanese returning from Sudan. Notably, their coming back to South Sudan is forceful. Consequently, it is reasonable that they should now be grouped and treated as IDPs. This is because the consequences of climate change are existing and manifesting while the effects of the armed conflict have ensured that there is nothing to return to, for the returnees, hence justifying the reasons they should be grouped and treated as IDPs.

Article VI of the aforementioned Convention governing refugees problems in Africa requires state parties to provide travel documents to the refugees. This should be done by South Sudan to the refugees who entered the country without documentation. This will allow them to apply for sustainable jobs that would prevent them from succumbing to hunger.

Article IX of the Kampala Convention mandates state parties to provide 'humanitarian assistance including food to the IDPs'. In order to give this effect, South Sudan must and has indeed injected resources to address the humanitarian needs of the returnees (re-displaced) and refugees, but more needs to be done. The country 'must domesticate the Kampala Convention', by developing and adopting effective policies on IDPs and refugees as well as ensuring that the money approved to address their conditions is not corrupted.