

THE CONFLICT IN SUDAN: UNITED NATIONS SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS

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Executive Summary

The United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons ("Special Rapporteur") is one of the Special Procedures of the UN Human Rights Council. These are independent human rights experts with mandates to report and advise on specific human rights themes or situations in specific countries and to engage in advocacy and raise public awareness of serious violations. This Rapid Response Analysis is the second Analysis in a series from the Public International Law & Policy Group (PILPG) examining the role of UN and African Union Special Procedures, and follows on from PILPG's examination of the UN Special Rapporteur on Truth, Justice, and Reparation.¹

The Special Rapporteur's mandate is focused on strengthening the international response to internal displacement, advocating for the rights of internally displaced persons, and finding durable solutions. Fact finding by the Special Rapporteur is conducted through communications with affected States and country visits, which is heavily dependent on the cooperation of the affected States. However, there is also a procedure by which organizations and individuals can make submissions to the Special Rapporteur, which is designed to allow information to be submitted as easily as possible.

Sudan is experiencing massive internal displacement and related human rights violations. Responding to the needs of internally displaced persons in such situations of generalized violence and finding durable solutions in peace processes are among the Special Rapporteur's key thematic priorities. Prior engagement on Sudan, the overall focus of the UN Special Procedures on the current conflict there, and the Special Rapporteur's intent to accelerate efforts to receive and act on relevant information further suggest that relevant submissions regarding Sudan would be given high priority.

If provided with relevant facts, the Special Rapporteur can – through communications with the Sudanese government, reports to the UN system and dealings with the news media, and through the mandate's overall coordinating role – make an important contribution to raising awareness of the plight of internally displaced persons in the Sudan conflict and promoting their inclusion in the peace process.

¹ See https://www.publicinternationallawandpolicygroup.org/pilpg-sudan-rapid-response-analysis.

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Statement of Purpose

This Rapid Response Analysis explains the mandate of the United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons and its relevance to the current conflict situation in Sudan.

Introduction

The United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons ("Special Rapporteur") is one of the Special Procedures of the UN Human Rights Council. The Special Procedures are independent human rights experts with mandates to report and advise on specific human rights themes or situations in specific countries. With the support of the United Nations High Commissioner for Human Rights (OHCHR), the Special Procedures engage in advocacy, raise public awareness and provide technical assistance. There are currently 45 thematic and 14 country-specific Special Procedures mandates.² There is no country-specific mandate for Sudan; a former mandate ended in 2020.³

In recent months, the Coordination Committee of Special Procedures has focused on the current crisis in Sudan, sparked by the conflict that erupted between the Sudanese Armed Forces and the Rapid Support Forces in April 2023. This ongoing conflict has led to an alarming loss of life, with hundreds of thousands seeking refuge or being forcibly displaced from their homes.⁴ There are reportedly more than 3.6 million internally displaced persons currently registered in Sudan.⁵

In light of these developments, this Rapid Response Analysis sets out the mandate of the Special Rapporteur and the submissions procedure available to individuals and groups, concluding with an assessment of the benefits of engaging the Special Rapporteur on the current situation in Sudan.

² OHCHR, *About Special Procedures*, *available at* https://www.ohchr.org/en/special-procedures-human-rights-council.

³ OHCHR, Former Mandate Holders (Discontinued Mandates), available at https://www.ohchr.org/en/special-procedures-human-rights-council/former-mandate-holders-discontinued-mandates.

⁴ Statement of Ms. Tlaleng Mofokeng, Chair of the Coordination Committee of Special Procedures before the 36th Special Session of the Human Rights Council on the Human Rights Impact of the Ongoing Conflict in the Sudan (May 11, 2023), available at https://www.ohchr.org/en/special-procedures-human-rights-council.

⁵ International Organization for Migration, *Displacement Tracking Matrix - Situation Report (18)* (August 22, 2023), *available at* https://dtm.iom.int/reports/dtm-sudan-situation-report-18.

The Mandate of the Special Rapporteur

The Special Rapporteur's mandate is focused on mainstreaming the human rights of internally displaced persons throughout the UN system, strengthening the international response to internal displacement in armed conflict and other situations, and advocating for the rights of internally displaced persons.⁶

The Special Rapporteur does not have direct enforcement power with respect to human rights violations. Rather, the mandate focuses on promoting the human rights of internally displaced persons and working towards a coordinated response of all relevant actors – including governments, intergovernmental and regional organizations, NGOs, and others – to the complexities surrounding internal displacement.

The UN most recently extended the Special Rapporteur's mandate in 2022.⁷ The Special Rapporteur's tasks include:

- Analyzing the root causes and drivers of internal displacement, the needs and human rights of those displaced, and durable solutions;
- Promoting strategies for the prevention of displacement, and for the integration of internally displaced persons in national development plans and peace processes;
- Promoting the use of the Guiding Principles on Internal Displacement;8
- Integrating a gender perspective with special consideration to the human rights of internally displaced women and other groups with specific needs;
- Attending to the role of the international community in assisting affected States, in meeting the protection and assistance needs of internally displaced persons upon their request;
- Strengthening the cooperation established between the Special Rapporteur and the UN development system; and

⁶ OCHCR, *Special Rapporteur on Internally Displaced Persons, About the Mandate, available at* https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons.

⁷ U.N. Human Rights Council Resolution 50/6, U.N. Doc A/HRC/RES/50/6 (July 18, 2022), *available at* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/408/83/PDF/G2240883.pdf.

⁸ U.N. Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2 (February 11, 1998), *available at*

https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/international-standards.

• Using and promoting the Framework on Durable Solutions for Internally Displaced Persons of the Inter-Agency Standing Committee⁹ and related tools.

The current Special Rapporteur on the Human Rights of Internally Displaced Persons is Paula Gaviria Betancur, a human rights lawyer and journalism expert. She assumed the mandate on November 1, 2022. She previously served as a member of the UN Secretary-General's High Level Panel on Internal Displacement.¹⁰

In her most recent report, the Special Rapporteur highlighted a people-centered approach to the mandate, recognizing internally displaced persons as rights holders and emphasizing their meaningful participation in decisions affecting them. The report's key thematic priorities include the importance of addressing internal displacement from generalized violence and the integration of internal displacement consideration in peace processes and peacebuilding.¹¹

The Special Rapporteur has three main information-gathering pathways. First, the Special Rapporteur may issue communications detailing allegations of human rights violations and requesting a response. Second, the Special Rapporteur may conduct country visits upon the request of affected states. Third, anyone — individuals, groups, civil society organizations, intergovernmental entities, national human rights bodies, and others — can make submissions to the Special Rapporteur, and the procedure is designed to allow information to be submitted as easily as possible.

Communications

Communications are letters sent to governments and other duty-holders, such as intergovernmental organizations, businesses, and military or security companies, outlining alleged human rights violations and requesting a response.

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⁹ Inter-Agency Standing Committee, IASC Framework on Durable Solutions for Internally Displaced Persons, available at

https://interagency standing committee.org/other/iasc-framework-durable-solutions-internally-displaced-persons.

¹⁰ OHCHR, Special Rapporteur on the Human Rights of Internally Displaced Persons, available at https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/paula-gaviria-betancur.

¹¹ Special Rapporteur on the Human Rights of Internally Displaced Persons, Paula Gavriria Betancur, *Vision and Thematic Priorities: Addressing New Challenges and Consolidating Gains*, A/HRC/53/35 (May 4, 2023), *available at* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/083/53/PDF/G2308353.pdf.

Communications also provide the basis of reports to the Human Rights Council, thereby raising public awareness.¹²

Unlike communications procedures established under human rights treaties, the Special Rapporteur may issue communications regardless of whether domestic remedies have been exhausted, and they do not preclude appropriate judicial measures at the national level.¹³ They also do not require that the concerned country sign or ratify any international treaty.

Communications set out the relevant facts and applicable law and request a substantive response to allegations of past violations within two months. The response is expected to explain which measures the State has taken to investigate and punish alleged perpetrators, provide assistance and compensation to victims, and prevent further violations.¹⁴

Where alleged violations are threatened or ongoing, the communication will request that the concerned authorities take action to prevent or stop the violation. Where such alleged violations are time-sensitive, for instance, because they involve a loss of life, life-threatening situations, or other imminent or ongoing damage of a grave nature, a communication may be issued as an urgent appeal, accompanied by issuing press statements.¹⁵

Six communications under the UN Special Procedures were sent to Sudan in 2022. The Sudanese authorities responded to only one case: a Joint Urgent Appeal relating to a Sudanese women's rights activist who had allegedly been arbitrarily arrested and forcibly disappeared. The response denied the allegations

https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications.

¹² OHCHR, What are Communications?, available at

¹³ Manual of Operations of the Special Procedures of the Human Rights Council (August 2008), para. 42, available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/Manual Operations2008.pdf.

¹⁴ Manual of Operations of the Special Procedures of the Human Rights Council (August 2008), paras. 46-48 (Letters of Allegation), available at

https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/Manual Operations2008.pdf.

¹⁵ Manual of Operations of the Special Procedures of the Human Rights Council (August 2008), paras. 43-45 (Urgent Appeals) and paras. 49-51 (Public and Press Statements), available at

https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/Manual Operations2008.pdf.

¹⁶ Human Rights Council Resolution A/HRC/52/70/Add.1, p. 30 (published March 22, 2023), *available at* https://www.ohchr.org/en/documents/reports/ahrc5270add1-facts-and-figures-regard-special-procedures-2022.

¹⁷ Communication to Sudan, SDN 2/2022 (February 4, 2022), available at

https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27059.

and asserted that the activist had been arrested and jailed for arms possession, but then released on bail.¹⁸

In 2021, the Special Rapporteur issued two communications to Sudan. In January, the Special Rapporteur wrote to the Sudanese authorities to bring to their attention attacks on camps for internally displaced persons and villages in Darfur in the context of intercommunal violence, leading to killings, injuries, and mass displacement involving 50,000 alleged victims.¹⁹ In May 2021, the Special Rapporteur wrote to Sudan regarding the killing of a human rights activist and the sentencing of a women human rights defender.²⁰ Sudan did not respond to either communication.

The current Special Rapporteur has indicated her intent to promote communications to states as an advocacy tool to accelerate their action on information.²¹

Country Visits

The Special Rapporteur may carry out country visits to obtain direct and first-hand information on human rights violations. Country visits are carried out only with the permission of the host state. Invitations may be issued at the request of the Special Rapporteur or by the state on its own initiative. Some countries have issued standing invitations.²²

During a country visit, the Special Rapporteur may visit national and local authorities, including members of the judiciary and parliamentarians, members of national human rights institutions, NGOs, civil society organizations, victims of human rights violations, the UN and other intergovernmental agencies, as well as with the press when giving a press conference at the end of the mission. Findings,

https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25986. ²⁰ SDN 2/2021 (May 4, 2021), *available at*

¹⁸ Permanent Mission of the Republic of the Sudan, Geneva, *Sudan's Response to the Joint Urgent Appeal from Special Procedures (case of Ms. Amira Osman Hamid Bilal)* (March 11, 2022), *available at* https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=36848.

¹⁹ SDN 2/2021 (January 28, 2021), available at

https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26379.

²¹ Special Rapporteur on the Human Rights of Internally Displaced Persons, Paula Gavriria Betancur, *Vision and Thematic Priorities: Addressing New Challenges and Consolidating Gains*, A/HRC/53/35 (May 4, 2023), para. 50, *available at* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/083/53/PDF/G2308353.pdf.

²² OHCHR, Country and Other Visits, available at

https://www.ohchr.org/en/special-procedures-human-rights-council/country-and-other-visits; *Manual of Operations of the Special Procedures of the Human Rights Council* (August 2008), paras. 52-74 (Country Visits), *available at* https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/Manual Operations2008.pdf.

conclusions, and recommendations are then published in mission reports submitted to the Human Rights Council.²³

Sudan has not issued a standing invitation and the Special Rapporteur has not been able to visit; requests for country visits by other Special Procedures have not received a response from Sudan.²⁴ To date, the Special Rapporteur has conducted visits and published reports on the human rights of internally displaced persons in nine countries: Mexico (2023), Japan (2023), Iraq (2020), Libya (2018), Niger (2018), El Salvador (2018), Nigeria (2017), Afghanistan (2017), and Georgia (2017). However, these countries were not involved in extensive armed conflict at the time.

The Independent Expert on the Situation of Human Rights carried out one country visit to Sudan under the UN Special Procedures in 2018.²⁵ That mandate ended in 2020, and there is currently no country-specific UN Special Procedure for Sudan.

However, three of Sudan's neighbors (Chad, the Central African Republic, and South Sudan) have issued standing invitations for country visits from UN Special Procedures, including the Special Rapporteur.²⁶ These three countries host more than 400,000 new refugees from Sudan,²⁷ including potentially those who were initially internally displaced in Sudan and who could provide witness interviews. This approach could allow the Special Rapporteur to gather information given her focus on countries like Sudan experiencing the most critical, challenging and persistent displacement situations, and to seek a regional or subregional approach to analyzing country situations.²⁸

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²³ OHCHR, Country and Other Visits, available at

https://www.ohchr.org/en/special-procedures-human-rights-council/country-and-other-visits; *Manual of Operations of the Special Procedures of the Human Rights Council* (August 2008), paras. 52-74 (Country Visits), *available at* https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/Manual_Operations2008.pdf.

²⁴ Human Rights Council Resolution A/HRC/52/70/Add.1, p. 23 (published March 22, 2023), *available at* https://www.ohchr.org/en/documents/reports/ahrc5270add1-facts-and-figures-regard-special-procedures-2022.

²⁵ Independent Expert, Report of the Independent Expert on the Situation of Human Rights in the Sudan, Delivered to the Human Rights Council, A/HRC/39/71 (Aug. 13, 2018), available at

https://spinternet.ohchr.org/Download.aspx? Symbol No=A%2 fHRC%2 f39%2 f71& Lang=en.

²⁶ OHCHR, *Standing Invitations*, *available at* https://spinternet.ohchr.org/StandingInvitations.aspx?lang=en.

²⁷ OHCHR, *Operational Data Portal*, *available at* https://data.unhcr.org/en/situations/sudansituation (accessed August 25, 2023).

²⁸ Special Rapporteur on the Human Rights of Internally Displaced Persons, Paula Gavriria Betancur, *Vision and Thematic Priorities: Addressing New Challenges and Consolidating Gains*, A/HRC/53/35 (May 4, 2023), para. 47, *available at* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/083/53/PDF/G2308353.pdf.

Submissions to the Special Rapporteur

Anyone – individuals, groups, civil-society organizations, intergovernmental entities, national human rights bodies, and others – can make a submission to the Special Rapporteur. Submissions do not require the concerned country's ratification of a specific treaty or the exhaustion of legal remedies.²⁹

Process

Submissions may be made through a structured online form available at https://spsubmission.ohchr.org/ or by mail to:

OHCHR-UNOG 8-14 Avenue de la Paix 1211 Geneva 10 Switzerland

Individuals and entities can also email the Special Rapporteur (hrc-sr-idp@un.org) although the general preference of Special Procedures is for submissions to be made using the online form.³⁰

Content of Submissions

The online submission form requests details in several categories of information, including:

- The victims, whether individuals, groups, or civil society;
- The submitter, whether they are individuals or groups;
- Disclosure consent (as discussed below);
- Case details, including the country; description of the incident (what happened and when, including the date and time); who was involved; and any additional information (with a limit of 3 files of 3 MB each); and
- Information about those allegedly responsible for the incident, whether individuals/authorities/or organizations.³¹

²⁹ OHCHR, What Are Communications?, available at

https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications.

³⁰ OHCHR, What Are Communications?, available at

https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications.

³¹ See also OHCHR, Special Procedures Communications, What Information Is Needed?, available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/SPP PresentationFlyer.pdf.

The identity of alleged victims is generally included in communications with governments and others. But if the alleged victims or their representatives make it clear in the submission that there are concerns relating to the security of the alleged victims, the Special Rapporteur may exceptionally decide to withhold the victims' names from the communication. In addition, the names of alleged victims under 18 years of age or alleged victims of sexual violence are not published. Since compilations of allegations are also reported to the Human Rights Council, it is important that the alleged victims and their families or representatives indicate in their submissions whether they consent to disclosure of their names in communications, as well as in a public report to the Human Rights Council.³²

Criteria for Evaluation of Submissions

Submissions are evaluated by the Special Rapporteur based on criteria including the following:

- The allegations should not be manifestly unfounded or politically motivated;
- The allegations should contain a factual description of the claimed violations of human rights;
- The language in the allegations should not be abusive;
- The allegations should be submitted on the basis of credible and detailed information by a person or a group of persons claiming to be victim of violations or by any person or group of persons, including NGOs, acting in good faith in accordance with principles of human rights; and
- The allegations should not be exclusively based on reports disseminated by mass media.³³

Process Upon Receipt of Submissions

³² OHCHR, What Are Communications?, available at

https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications.

³³ Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council (Dec. 6, 2007), available at

https://www.ohchr.org/en/documents/procedural-documents/code-conduct-special-procedures-mandate-holders-human-rights-council.

The Special Rapporteur endeavors to react to submissions as quickly as possible, and can initiate a case within 24 hours of receiving a submission.³⁴ As noted above, the Special Rapporteur may follow up by issuing a communication to the concerned state requesting clarification and remedial and/or preventive action; requesting permission to conduct a country visit; and engaging with the press.

Conclusion: Benefits of Engaging the Special Rapporteur Regarding Human Rights Violations in Sudan

The ongoing conflict in Sudan has caused massive internal displacement and related human rights violations. Protecting and finding durable solutions for displaced persons in such situations is at the core of the Special Rapporteur's mandate. The Special Rapporteur has previously acted in relation to Sudan, and engagement on the rights of displaced persons in situations of violent conflict and in connection with peace agreements and peacebuilding are central thematic priorities. The Special Rapporteur has publicly engaged at least twice in the current conflict. First, in May 2023, as part of a joint statement of concern issued by the UN Special Procedures;³⁵ and second, in August 2023, as a Principal of the Inter-Agency Standing Committee, urging action to end the tragedy in Sudan.³⁶

As one of the UN Special Procedures, the Special Rapporteur can help fill gaps where the Sudanese authorities are not willing or able to investigate or prosecute relevant violations, where remedies may not be available to victims under Sudanese domestic law, or where Sudan has not ratified international human rights treaties that could provide avenues for other mechanisms.

Along with other Special Procedures and consistent with a regional or sub regional approach to analyzing country situations, the Special Rapporteur could conduct field visits to Sudan's three neighboring countries (Chad, Central African Republic, and South Sudan) to obtain information from interviews with Sudanese refugees and returnees currently residing in these countries, some of whom may have been initially internally displaced in Sudan. Nevertheless, the Special Rapporteur's ability to gather information through communications to Sudan and

https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications.

³⁴ OHCHR, What Are Communications?, available at

³⁵ Civilians bear devastating brunt of fighting in Sudan: UN experts, available at

https://www.ohchr.org/en/press-releases/2023/05/civilians-bear-devastating-brunt-fighting-sudan-un-experts.

³⁶ Statement by Principals of the Inter-Agency Standing Committee: After 4 Months of War, Humanitarian Leaders Urge Action to End the Tragedy in Sudan, available at

https://sudan.un.org/en/241542-statement-principals-inter-agency-standing-committee-after-4-months-war-humanita rian-leaders.

country visits in Sudan is dependent on Sudan's consent and willingness to respond. Sudan has not responded to recent Special Procedures communications and has not invited the Special Rapporteur or other Special Procedures mandate holders to visit the country, thereby limiting the Special Rapporteur's ability to gather information by these means.

As a result, information received through the complaints submission procedure can make an important contribution to the Special Rapporteur's work on Sudan. Submissions by or on behalf of individuals or groups are of particular interest given the Special Procedures' people-centered approach. Prior engagement on Sudan, the overall focus of the UN Special Procedures on the current conflict, and the Special Rapporteur's intent to accelerate efforts to receive and act on relevant information suggest that relevant submissions would be given high priority.

The Special Rapporteur's role is focused on advocacy and coordination of efforts among relevant actors. She cannot directly intervene or prosecute violations. However, the Special Rapporteur can – through communications with the Sudanese government, reports to the UN system and dealings with the news media, and through her overall coordinating role – make an important contribution to raising awareness of the plight of internally displaced persons in the Sudan conflict and promoting their inclusion in the peace process.

Given that Sudan is unlikely to grant permission to the Special Rapporteur to conduct a country visit, and the fact that Sudan has been historically unresponsive to communications from Special Procedures, the Special Rapporteur's coordinating role is likely to be particularly significant. The Special Rapporteur can coordinate with other international organizations, including to advocate based on submissions the Special Rapporteur has received. The Special Rapporteur already works closely with international organizations deeply engaged in Sudan, including the Office for the Coordination of Humanitarian Affairs and the United Nations High Commissioner for Refugees. However, numerous additional actors are also directly or indirectly involved in addressing the plight of internally displaced persons in Sudan. These include the UN Special Adviser on Solutions to Internal Displacement,³⁷ the UN agencies participating in the Steering Group on Internal Displacement, the regional efforts of the Trilateral Mechanism established by the

³⁸ See https://www.un.org/en/solutions-to-internal-displacement/steering-group.

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³⁷ See https://www.un.org/en/solutions-to-internal-displacement.

African Union, the Intergovernmental Authority on Development (IGAD),³⁹ the UN Integrated Transition Assistance Mission in Sudan (UNITAMS),⁴⁰ as well as Sudan's neighboring states. At this stage of the conflict, the Special Rapporteur's work on advocacy and coordination holds the most promise for beneficial impact.

³⁹ See https://igad.int/.
⁴⁰ See https://unitams.unmissions.org/.