

Darfur's Peace Agreement

« Justice, responsibility and reconciliation » chapter

Unofficial translation from French into English by Justice Info

General Principles:

1. Respect human rights and international humanitarian law.
2. Adopt transitional justice mechanisms as tools to deliver justice for victims and prosecute perpetrators of violence committed during the conflicts in Darfur.
3. Work for national and international justice for crimes of genocide, crimes against humanity and war crimes.
4. Recognize that the quest for justice excludes any possibility of amnesty or protection for perpetrators of genocide, crimes against humanity and war crimes.
5. Victims have the right to unhindered access to effective justice mechanisms. They have the right to fairness and prompt and effective reparation for harm in cases related to violations of human rights and international humanitarian law.
6. Victims have the right to be informed of their rights as victims of violations of domestic law, violations of human rights and international humanitarian law.
7. Affirm the importance of independent and impartial mechanisms for justice, accountability and reconciliation, including transitional justice mechanisms consistent with international norms and standards.
8. Unconditionally condemn the atrocities and violations of human rights and international humanitarian law committed during the conflicts, and commit to do what is necessary to prevent such violations from occurring again.
9. Ensure that all those who committed violations of human rights and international humanitarian law are prosecuted under the jurisdiction of national or international courts or the Special Tribunal for Darfur.
10. Recognize the specific situations and issues of women, children and youth. Recognize the important role of women and youth in conflict prevention and resolution, as well as their participation in transitional justice processes and peace building. Recognize the need for their equal participation in all efforts to protect international peace and security, including justice and reconciliation.

11. Children involved in conflict who are alleged to have committed crimes under international law are considered victims and are treated according to the Convention on the Rights of the Child, the Second Protocol to the Geneva Agreement, the African Charter on the Rights and Welfare of the Child, the Beijing Rules, and international juvenile justice standards, in collaboration with the United Nations Children's Fund and other related organizations. The signatories of this agreement will work to rehabilitate and integrate child soldiers into society.
12. Recognize the important role that local and traditional mechanisms can play in the search for truth, justice and reconciliation and as a complement to formal justice and reconciliation mechanisms. Integrate these mechanisms into the post-conflict justice process.
13. Continue legal and institutional reforms to strengthen the rule of law and create appropriate mechanisms that meet international standards.
14. Examine other African and international experiences in the practices of accountability, reconciliation, truth, justice and remembrance in response to what has happened in Darfur.
15. Identify and isolate individuals who have committed crimes and violations of human rights and international humanitarian law so as to curb impunity, rebuild confidence, and strengthen the rule of law in Darfur.
16. Provide full security and protection to all citizens.
17. Admit to having made mistakes, accept responsibility for them, establish them in court, forgive and commit not to repeat them.
18. Strengthen open dialogue among all components of society to establish lasting reconciliation in Darfur.
19. Reform the national judicial system in Sudan to ensure the impartiality and independence of the judiciary so that it reflects and enhances diversity at the national, regional, governorate, and local levels without discrimination.

20. The national judicial system

- 20.1 With the exception of crimes that constitute violations of international criminal law, crimes within the jurisdiction of the International Criminal Court and the Special Court for Darfur, and matters relating to the Truth and Reconciliation Commission, Sudanese courts exercise their powers and jurisdiction as provided by law.
- 20.2 The national courts, working as part of the national justice system in Sudan, refer crimes outside their jurisdiction to the specialized judicial mechanisms, which are the Special Court for Darfur, traditional justice mechanisms, and the Truth and Reconciliation Commission.

21. Truth and reconciliation

- 21.1 The two parties agree that promoting reconciliation in Darfur is one of the ultimate objectives of the agreement. This is to be achieved by addressing the root causes of the conflicts and strengthening measures to reduce them, supporting mechanisms and operations aimed at facilitating reconciliation and rebuilding social harmony. Both parties are aware that the marginalization of the people of Darfur is one of the main reasons for these conflicts.
- 21.2 Both parties agree to implement a comprehensive truth and reconciliation process that has, among other things, the following objectives:
- 21.2.1 Create the conditions for social and peaceful reconciliation between the different components of society;
 - 21.2.2 Rebuild and consolidate relations between the components of society and strengthen cohabitation, collaboration and social cohesion in Darfur.
 - 21.2.3 Fight against tribal and regional polarization and prevent tribal clashes that have ethnic reasons and motivations.
 - 21.2.4 Establish a culture of peace in accordance with traditional cultural values and heritage.
 - 21.2.5 Make formal and informal, individual and collective apologies to the victims of the war.

22. The Truth and Reconciliation Commission :

- 22.1 The two parties agree to set up a Truth and Reconciliation Commission within 60 (sixty) days from the date this agreement is signed. Its tasks will be as follows:
- 22.1.1 Define and evaluate the root causes of the conflicts in Darfur.
 - 22.1.2 Investigate the crimes and human rights violations, including violations of economic, social, environmental and cultural rights, committed since June 1989.
 - 22.1.3 Fight impunity, build trust and a culture of peace and reconciliation.
 - 22.1.4 Carry out a global analysis to define the causes and nature of the conflicts and serious violations of international and humanitarian law and human rights, and determine the motives of those who have committed them.
 - 22.1.5 Determine whether these violations are the result of deliberate planning on the part of the State or its organs, political organizations, armed movements or other groups and individuals.
 - 22.1.6 Carry out any other task or activity related to truth and reconciliation.
- 22.2 The two parties agree that the Truth and Reconciliation Commission start its work within 60 (sixty) days from the date of its creation. It is to continue its work for a period of **10 (ten) years**, starting from its first day of operations, unless its mission be completed in advance.

22.3 The Truth and Reconciliation Commission shall have centres in the capitals of the governorates of Darfur and in Khartoum, and, where appropriate, an office in each community affected by the conflict.

22.4 The Truth and Reconciliation Commission shall be formed in the following manner:

22.4.1 The Truth and Reconciliation Commission shall be composed of (11) members.

22.4.2 Each party shall choose (5) persons, in addition to (1) person, approved by both parties, who shall preside over the Commission.

22.4.3 Each party chooses at least one woman to be part of the Commission.

22.4.4 The individuals appointed to the Commission shall be of high moral character and shall be considered neutral by the people of Darfur.

22.4.5 Members of the Commission shall be independent and have extensive experience in the field of human rights, transitional justice and/or Truth and Reconciliation Commissions.

22.5 The Truth and Reconciliation Commission shall have the following additional competencies:

22.5.1 To offer victims and those who have committed human rights violations, among others, the opportunity to exchange experiences and reach a mutual understanding of the past. To facilitate genuine healing of wounds within society, strengthen reconciliation, and prevent future atrocities.

22.5.2 Collect testimonies and accounts from victims, witnesses, local communities, beneficiary groups, persons directly or indirectly involved in the events, or any other group or individual.

22.5.3 To carry out investigations and research, including summoning persons to appear before the Truth and Reconciliation Commission, collecting evidence, conducting interviews, and any other measure it deems useful to carry out its duties.

22.5.4 To hold hearings.

22.5.5 To become involved in the activities it deems appropriate to achieve reconciliation.

22.5.6 Keep evidence collected in an agreed and secure location and protect victims and witnesses.

22.5.7 Record as well as fully and accurately document all crimes and violations, and develop functional systems to manage documentation and facilitate information retrieval

22.5.8 To prevent further psychological and emotional suffering for victims and to encourage testimony, the Truth and Reconciliation Commission shall guarantee

the support of a professional team of psychological experts for victims and adopt special measures to protect child witnesses and victims.

- 22.5.9 The Truth and Reconciliation Commission shall not have the power to grant pardons in any manner except with the agreement of the victims and in such a way as to facilitate its work and enhance reconciliation and healing of the wounds caused by the conflict in Darfur.
- 22.5.10 The two Parties shall determine the full investigative and para-judicial jurisdiction of the Truth and Reconciliation Commission.
- 22.5.11 The Truth and Reconciliation Commission shall recommend measures to strengthen and establish a comprehensive and lasting peace in Darfur. It shall regularly present the results of its work and its recommendations to the government of the region/governorates of Darfur. The Commission shall submit reports containing legal, policy, or administrative recommendations based on its investigations, removing all personally identifying information from public reports.
- 22.5.12 The two parties request the assistance of the international community to provide the necessary financial and technical support for the work of the Truth and Reconciliation Commission, and the Government of Sudan shall ensure that the Truth and Reconciliation Commission has sufficient funds, premises and national and international staff to carry out its missions. It is necessary to provide initial funding for the operation of the Truth and Reconciliation Commission.
- 22.5.13 Both parties shall ensure that there is no interference with the work of the Commission, that its members are not intimidated or influenced, that its subsidiary entities or its properties and facilities are not attacked, and that the Commission is allowed to work independently. The Truth and Reconciliation Commission shall adopt its own internal rules of procedure, which shall be clear and publicly accessible and shall be based on best practices developed in collaboration with international organizations and experts in international law. The Commission shall collaborate and coordinate with the other mechanisms defined in this agreement.

23. Traditional justice mechanisms :

- 23.1 Powers are granted to traditional justice mechanisms to punish individuals who have committed crimes related to the conflict within communities or between communities. The traditional justice mechanisms have jurisdiction for crimes linked to the conflict which do not fall under the jurisdiction of the International Criminal Court, the Special

Tribunal for Darfur, the national judicial system or the Truth and Reconciliation Commission.

- 23.2 Traditional justice mechanisms shall impose various sanctions, appropriate and proportional to the crimes committed, in order to strengthen reconciliation, property restitution and compensation of victims without encroaching on the competencies of the Compensation and Reparations Fund.
- 23.3 The accused has the right to negotiate for the commutation of a sentence handed down by a traditional justice mechanism; this negotiation may include a written or verbal and public apology.
- 23.4 In order to protect witnesses, severe sanctions shall be imposed on persons who threaten and commit violence against witnesses in traditional justice proceedings.
- 23.5 Give priority to community service sentences, particularly for those who make public apologies.
- 23.6 A committee shall be created to monitor and oversee the enforcement of sentences of unpaid community service.
- 23.7 Traditional justice mechanisms refer cases outside their jurisdiction to other specialized justice mechanisms, including the Special Court for Darfur, the national judiciary, and the Truth and Reconciliation Commission.
- 23.8 Traditional justice mechanisms exercise their traditional jurisdiction through the use of customary non-procedural laws and traditional procedural laws.
- 23.9 Respect for the rights of the accused and the need to provide justice to victims shall be fully considered at all stages of the proceedings of traditional justice mechanisms.
- 23.10 The accused shall have the right to counsel.
- 23.11 Free legal assistance shall be provided to victims and accused persons to ensure their effective representation in cases brought before traditional justice mechanisms.
- 23.12 Local, regional, and community leaders shall oversee the missions of traditional justice mechanisms; judges and members of the justice mechanisms shall be of high probity.
- 23.13 Both parties shall consult with local and regional leaders and civil authorities to determine ways to formalize traditional justice mechanisms within the national justice system.

24. The International Criminal Court

- 24.1 The parties affirm their willingness to cooperate fully and without limitation with the International Criminal Court regarding persons subject to arrest warrants. This includes facilitating the appearance of wanted persons, and adherence to resolution 1593 (2005), which referred the situation in Darfur to the International Criminal Court.

- 24.2 Both Parties shall facilitate access by the Prosecutors General and investigators of the International Criminal Court to witnesses, victims and investigation sites. They shall permit the International Criminal Court officials to move freely in all regions and roads of the Sudanese State and in its waters and airspace at all times.
- 24.3 Both Parties shall refrain from interfering with the investigations and trials of the International Criminal Court and shall ensure the protection and security of all members of the Prosecutor's Office, victims and witnesses.
- 24.4 Both parties undertake to remove from office persons who are the subject of warrants of arrest or trial, or who have already been convicted by the International Criminal Court; such persons shall be removed from their positions, whether elected or appointed; they shall not be entitled to hold such positions until their names are removed from the warrants of arrest, the charges are dropped, or the Court finds them not guilty.

25. Special Tribunal for Darfur

- 25.1 The parties agree to establish a Special Court to try crimes that took place in Darfur within 90 (ninety) days from the date of the signing of this agreement. This court shall serve for 10 (ten) years from the date of its establishment, unless the court completes its work before the end of that period.
- 25.2 The court shall be composed of national, competent and impartial judges who shall be appointed by the President of the Supreme Court.
- 25.3 The Attorney General shall designate an independent prosecutor for this court in agreement with both parties.
- 25.4 The Special Court for Darfur is specialized in crimes of genocide, crimes against humanity, war crimes, and serious violations of human rights and international humanitarian law since 2002.
- 25.5 The Court shall determine a seat and may establish courts in any region of Darfur.
- 25.6 A team of experts from the African Union shall oversee the proceedings of the court to ensure that they are conducted in accordance with the principles of justice and fairness under international law.
- 25.7 The law applicable by the Special Tribunal for Darfur in relation to war crimes, crimes against humanity, and genocide shall be Sudanese and international law.
- 25.8 The Government of Sudan undertakes to ensure the delivery of victims, witnesses, and perpetrators of crimes to the Special Court, including those outside Darfur, in coordination with the relevant authorities.

26. Amnesty and protection

- 26.1 The government undertakes to grant a general amnesty to leaders and members of armed groups for any convictions and prosecutions based solely on their being members of these movements, following a legal review by the relevant institutions as soon as the peace agreement is signed.
- 26.2 The government undertakes to return confiscated property belonging to organizations and individuals that were confiscated as a result of the war, provided that proof of ownership of such property can be provided.

27. Remembrance

- 27.1 The parties agree to build places of remembrance to honour the victims of the conflicts in Darfur. Commemoration is intended to tell those who have suffered from the conflict that this traumatic experience is over, as well as to educate and sensitize those who have not suffered from the conflict. Commemoration of victims of the conflict in Darfur can take many forms, including regular ceremonies, museums, resource centres, and memorials.
- 27.2 The development of a program of remembrance for the victims of the conflict in Darfur is intended to strengthen reconciliation and demonstrate the commitment of the people of Darfur and the Government of Sudan to the protection of human rights and the prevention of future violence; memorial sites shall be used as venues for civic events and educational programs about the conflict and its consequences.
- 27.3 Both parties agree to conduct popular consultations with all sectors of society to agree on collective objectives for the remembrance program; the consultations will take several forms including meetings, feasibility studies and needs assessments and will pay particular attention to the views of those who have suffered most from the conflict.