

Justice or Security in Post Conflict Sudan A Comprehensive Review

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Abstract

This paper examines the foundational trade off between accountability for atrocity crimes and the urgent need to end armed violence—what Sudanese civil society terms the “Devil’s Dilemma” (ناطي شلال قزام). Focusing on the prospective surrender or negotiation of the Rapid Support Forces (RSF) in Sudan’s ongoing civil war (2023–2026), the paper develops a theoretical and comparative framework for analyzing whether, when, and how states may lawfully and legitimately offer conditional amnesties or reduced sentences to perpetrators of war crimes, crimes against humanity, and genocide. Drawing on the jurisprudence of the Special Court for Sierra Leone, the evolving customary international law debate on amnesties, and the transitional justice experiences of South Africa (Truth and Reconciliation Commission), Rwanda (gacaca courts), Colombia (Special Jurisdiction for Peace), Liberia (Charles Taylor), Sierra Leone (Lomé Accord), and six original Sudanese case studies (1999 Amnesty Law; 2005 Comprehensive Peace Agreement; 2019–2021 transition; 2021 coup; 2020 Juba Peace Agreement; El Geneina massacres), the paper argues that unconditional amnesty is legally impermissible and politically dangerous, while blanket rejection of any accommodation is practically catastrophic. The paper proposes a middle-path model of “conditional acceptance,” comprising targeted ICC surrender of senior leadership, strict vetting, and DDR with judicial oversight, full truth-telling under oath, reparations financed from perpetrators’ assets, and GPS-monitored behavioral restrictions. Four analytical tables and three detailed scenarios (optimistic, pessimistic, and most likely) project the outcomes of different policy choices. The conclusion argues that the only unforgivable error in Sudan is to pretend that the choice is easy. That delayed justice is not abandoned justice if the delay saves lives.

Keywords: Transitional Justice, Sudan, Rapid Support Forces, Amnesty, International Criminal Court, Conditional Acceptance, Gacaca, Special Jurisdiction for Peace, Truth Commissions, DDR, Irreconcilable Goods, El Geneina, Darfur, Dirty Hands, Juba Peace Agreement, Security Sector Reform

1. Introduction**1.1. The Catastrophe in Numbers**

On 26 October 2025, the Rapid Support Forces (RSF) seized El Fasher, the capital of North Darfur, after an eighteen month siege. In three days of verified killings, 6,000 civilians died; the true figure may be far higher (Denise Brown, UN Humanitarian Coordinator in Sudan, cited in AA.com.tr [1]). A subsequent UN backed report found that the RSF’s conduct exhibited “hallmarks of genocide,” with ethnically discriminatory encirclement, systematic sexual violence, and the deliberate starvation of non Arab communities

[2,3]. By April 2026, the conflict had claimed over 150,000 lives, displaced fourteen million people (a quarter of Sudan’s population), and left 33.7 million requiring humanitarian assistance [4]. The war between the Sudanese Armed Forces (SAF) and the RSF has become one of the world’s most lethal and neglected humanitarian catastrophes—surpassing even the conflicts in Ukraine and Gaza in terms of displacement and food insecurity [5].

1.2. The Core Question

Even as the fighting continues, a more intractable question looms:

What should the SAF do if some RSF commanders, with more or less than “500 armed men” at their back, to use the metaphor of the Sudanese document, seek to surrender or negotiate? Reject them outright, and the commanders melt back into the desert, reconstituting as criminal gangs without any political project, only predation and killing. Accept them, and victims feel betrayed, the line between the army and a militia dissolves, and future warlords learn that atrocity is a bargaining chip. This is the “Devil’s Dilemma”, the choice between two catastrophes, neither of which corresponds to a clean victory of justice over evil. The Sudanese document that frames this paper states: “We are not choosing between good and evil. We are choosing between two catastrophes—and trying to find the least catastrophic.” This paper takes that framing seriously. It does not pretend that a perfect solution exists. Instead, it argues that a third path—conditional acceptance with enforceable accountability mechanisms—is the least bad option, and that the historical record from Sudan’s own failed experiments provides clear guidance on how to construct that path.

1.3. Scope and Methodology

This paper employs a qualitative case study methodology, drawing on primary sources (UN reports, ICC decisions, peace agreements, Sudanese legislation) and secondary sources (peer reviewed articles, think tank analyses, journalistic investigations). It compares four non Sudanese transitional justice models (South Africa, Rwanda, Colombia, Liberia/Sierra Leone) and analyzes six Sudanese case studies spanning 1999 to 2024. The paper then uses scenario analysis to project probable outcomes of different policy choices, grounded in the empirical record of similar conflicts. The normative framework combines deontological (duty based) and consequentialist (outcome based) reasoning, acknowledging that neither alone can resolve the dilemma.

1.4. Roadmap

The paper proceeds in nine sections. Section 2 provides the factual and legal background of the Sudan conflict, including the origins of the RSF and the international law on amnesties. Section 3 elaborates the theoretical structure of the dilemma as an “irreconcilable goods” problem, engaging with Walzer’s “dirty hands” and Akhavan’s “peace versus justice.” Section 4 offers comparative case studies from South Africa, Rwanda, Colombia, and Liberia/Sierra Leone. Section 5 presents six original Sudanese case studies drawn from the nation’s modern history. Section 6 analyzes the risks and opportunities of rejection versus acceptance through four analytical tables. Section 7 develops three detailed scenarios (optimistic, pessimistic, most likely). Section 8 presents a detailed policy model of conditional acceptance with operational pillars and implementation timelines. Section 9 concludes with reflections on the nature of tragic choice in transitional justice.

2. Background: From Janjaweed to Rapid Support Forces and the Prohibition of Blanket Amnesty

2.1. The Making of the RSF as an Atrocity Producing Apparatus

The RSF did not emerge from a political insurgency with a reform agenda. It emerged from the Janjaweed—Arab militias armed

and directed by the Omar al Bashir regime from 2003 onward to suppress non Arab populations in Darfur. The Janjaweed’s signature tactics were: aerial bombardment of villages followed by mounted militia attacks; mass rape as a weapon of war; deliberate destruction of water sources, crops, and livestock; and the forcible displacement of entire communities. By 2005, the UN Security Council had referred the situation in Darfur to the International Criminal Court (ICC). In 2009 and 2010, the ICC issued arrest warrants for al Bashir himself for genocide, war crimes, and crimes against humanity [6,7]. Yet al Bashir remained in power for another decade, and the Janjaweed were formally incorporated into the state as the Rapid Support Forces in 2013, under the command of Mohamed Hamdan Dagalo (“Hemedti”). Hemedti’s rise is itself a story of impunity. A former camel trader and gold smuggler, he was accused of commanding Janjaweed forces that committed atrocities in West Darfur in the early 2000s. Rather than face prosecution, he was promoted, given control of Sudan’s gold mines, and cultivated alliances with the United Arab Emirates and Russia’s Wagner Group [8]. From 2013 to 2023, the RSF grew into a parallel army of perhaps 100,000 fighters, funded by gold and Gulf allies, and accountable to no civilian authority. The RSF developed its own command structure, procurement network, and political agenda—operating as a state within a state.

2.2. The 2023 War: Trigger and Escalation

The 2023 war erupted precisely over the issue that now forms the core of the dilemma: integration. The internationally brokered framework agreement of December 2022 proposed integrating the RSF into the national armed forces over a period of years. Hemedti sought a longer, ten year timeline, preserving his command autonomy; SAF leader General Abdel Fattah al Burhan insisted on a two-year timeline with direct subordination to the army chain of command [9]. Negotiations collapsed, and on 15 April 2023, fighting broke out in Khartoum. Since then, the RSF has consolidated control over all five Darfur states and large parts of Kordofan, while the SAF holds the east, north, and center of the country. The de facto partition of Sudan is now a plausible medium-term outcome [5].

2.3. Atrocities Documented: Genocide, War Crimes, Crimes Against Humanity

Atrocities have been systematically committed by both sides, but the preponderance of evidence points to the RSF as the primary perpetrator of identity-based mass violence. A UN Fact-Finding Mission documented “a pervasive, consistent, and identifiable operational pattern characterized by ethnically discriminatory targeting, encirclement and siege tactics, and systematic violence against civilians across Darfur” [2]. In El Fasher, RSF fighters summarily executed people with physical disabilities, accusing them of being “injured combatants,” and killed a blind child and a young woman who could not walk [10]. The Mission concluded that these acts were “indicators of a genocidal path” [3]. In West Darfur, the RSF and allied militias systematically killed members of the Masalit tribe and other non Arab groups. Human Rights Watch (2023) documented “an ethnic cleansing campaign against the ethnic Massalit and other non Arab populations” and

concluded that the attacks constituted “crimes against humanity” and possible “genocide” [11]. Survivors recounted RSF fighters stopping fleeing civilians, asking about their tribe: “Woe to you if you are a Masalit.” Bodies were buried in mass graves—87 in one site alone [12].

2.4. International Law on Amnesties for International Crimes

The legal framework governing amnesties for international crimes is contested but has a clear direction of travel. The strongest international jurisprudence comes from the Special Court for Sierra Leone. In the *Kallon and Kamara* decision (2004), the Appeals Chamber held that the blanket amnesty contained in the Lomé Peace Accord (1999)—which granted “absolute and free pardon” to all combatants—could not bar the Court’s jurisdiction over international crimes [13]. “It is ineffective in removing the universal jurisdiction to prosecute persons accused of such crimes that other states have ... It is also ineffective in depriving an international court such as the Special Court of jurisdiction” (*Prosecutor v. Kallon and Kamara*, SCSL 04 15 PT 060 I, para. 71).

The Lomé Accord precedent is directly relevant to Sudan. The Accord did buy peace—the civil war in Sierra Leone ended—but at the cost of allowing Revolutionary United Front (RUF) leader Foday Sankoh to remain free. Sankoh eventually returned to violence, and the Special Court later overturned the amnesty and indicted him (though he died before trial). The lesson is that unconditional, blanket amnesties without international oversight fail both legally and practically: they violate international law and they do not produce sustainable peace [14].

However, legal scholar Louise Mallinder (2020) notes that assertions of a customary prohibition on amnesties for international crimes rest on a fragile empirical foundation [15]. Many states continue to grant amnesties for war crimes and crimes against humanity, and other states rarely object. The European Court of Human Rights in *Margus v. Croatia* (2014) acknowledged “a growing tendency ... to see such amnesties as unacceptable,” but the Court itself provided no systematic evidence of state practice [16]. Thus, while a strong normative preference against blanket amnesties exists, there is legal space for carefully crafted conditional measures.

3. Theoretical Framework: Irreconcilable Goods and Dirty Hands

3.1. Two Irreconcilable Goods

The Devil’s Dilemma is a specific instance of a broader class of problems in political ethics: irreconcilable goods. A decision-maker faces two (or more) values, each of which is intrinsically valuable and morally mandatory, yet circumstances make it impossible to fully realize both simultaneously. In the Sudan case, the two goods are the following:

- **Accountability:** Victims have a right to see perpetrators tried, convicted, and punished proportionately. The international community has a duty to deter future atrocities by ending impunity. This duty is codified in the Geneva Conventions,

the Rome Statute, and the evolving customary law against amnesties for international crimes.

- **Security:** The protection of human life—here and now, not in some hypothetical future—requires ending the war as quickly as possible. Every month of continued fighting kills an estimated 10,000 people from violence, hunger, and disease (Sudan document). Each month of delay produces an additional El Geneina.

These goods are irreconcilable in Sudan’s current circumstances because the RSF leadership will not surrender unconditionally. They have external backers (UAE, Russia, Chad), economic resources (gold mines), and a proven ability to survive in the desert. Any demand for immediate, full prosecution of all RSF commanders will be rejected, and the war will continue. Conversely, any demand for immediate, unconditional peace will require granting amnesty or de facto immunity to commanders who have committed genocide. There is no third option that fully satisfies both goods.

3.2. Walzer’s Dirty Hands

Philosophically, this mirrors the “dirty hands” problem in political realism. Michael Walzer (1973) argued that leaders may be required to perform acts that would be morally impermissible in ordinary circumstances (e.g., negotiating with torturers, ordering the torture of a terrorist to save lives) for the sake of preventing a greater catastrophe. The politician who saves lives by making a deal with a tyrant is “damned” even as he is “praised”—he must do the wrong thing for the right reasons, and he must feel the moral weight of that choice. The Sudanese general who accepts the surrender of an RSF commander “whose hands are stained with the blood of a village” is in exactly this position. He knows that accepting the commander betrays the victims. He also knows that rejecting the commander will result in the deaths of thousands more civilians. There is no clean escape. The best he can do is to structure the acceptance so that the betrayal is minimized—by imposing conditions that the commander confess publicly, pay reparations, and accept restrictions that make future violence less likely. This is the logic of conditional acceptance.

3.3. Akhavan’s Peace Versus Justice as False Dichotomy

The legal scholar Payam Akhavan (2001) called the “peace versus justice” debate a false dichotomy [17]. He argued that in the long run, there is no sustainable peace without justice. Impunity merely stores up grievances that erupt later. The Sudanese case studies (Section 5) strongly support this claim: every failure to enforce accountability (1999, 2005, 2019 2021, 2020, 2021) was followed by a worse conflict. Justice is not a luxury to be traded for peace; it is a prerequisite for durable peace. Yet Akhavan’s argument operates on a long term timescale. In the short term, there is still a trade off. The question is not whether justice should be done, but at what temporal cost. A peace agreement that includes conditional accountability (e.g., ICC surrender of top leaders, truth telling for mid level commanders) may delay full justice for years—but it may also save 100,000 lives. The devil’s dilemma is precisely that delayed justice is not the same as abandoned justice, but the delay

itself imposes suffering on victims who must wait.

3.4. A Temporal Framework for the Dilemma

This paper proposes a temporal framework for analyzing the dilemma:

- Immediate justice (prosecute all RSF commanders now) → no peace, continued war, 500,000+ additional deaths.
- Delayed justice (conditional acceptance with ICC for top leaders, truth telling and sanctions for others) → peace within 18 months, 50,000 additional deaths, justice for top leaders within 5 10 years.
- Abandoned justice (unconditional amnesty) → peace now, but

impunity institutionalized; new war within 5 10 years with even higher casualties.

- The framework shows that delayed justice, while morally costly, is superior to both immediate justice (which produces mass death) and abandoned justice (which merely postpones death to a later, larger war). The policy recommendation in Section 8 operationalizes this temporal logic.

4. Comparative Case Studies in Conditional Accountability

No society has resolved the Devil’s Dilemma perfectly. But several have managed it with varying degrees of success. Table 1 summarizes four key models.

Model	Core Mechanism	Accountability Level	Peace Effectiveness	Applicability to Sudan
South Africa (TRC)	Amnesty for full disclosure	Low (no prosecutions for most perpetrators)	High (prevented return to widespread political violence)	Partial – useful for lower level perpetrators, but insufficient for RSF commanders who committed genocide
Rwanda (Gacaca + ICTR)	Tiered: community courts for low level; international tribunal for leaders	Medium high for leaders; low medium for low level	High (allowed social reconstruction after genocide)	High – directly applicable: Sudan needs tiered accountability with ICC for top RSF leadership
Colombia (JEP)	Restorative sanctions for truth telling	Medium (non custodial sentences for cooperating leaders)	Medium high (70% homicide reduction; dissident factions remain)	Very high – the closest parallel: RSF commanders could receive GPS monitored home detention + reparative work
Liberia/Sierra Leone (Lomé Accord)	Blanket unconditional amnesty	Very low	Very low (amnesty voided; war resumed)	Warning case – demonstrates why unconditional amnesty fails

Table 1: Comparative Framework – Four Transitional Justice Models

4.1. South Africa: Truth Commission with Amnesty for Full Disclosure (1996 2002)

After the end of apartheid, South Africa chose not to pursue Nuremberg style prosecutions. Instead, the Truth and Reconciliation Commission (TRC) offered amnesty to perpetrators of political violence who made full disclosure of their acts. Those who did not apply for amnesty—or who lied to the Commission—remained vulnerable to prosecution. The TRC collected over 21,000 victim statements, documented 37,672 gross human rights violations, and granted amnesty to about 1,200 applicants who met the full disclosure requirement [18,19]. The TRC did not achieve national reconciliation in any romantic sense—many victims’ families still await justice, and political disputes over the legacy of apartheid continue today [20]. However, the TRC indisputably prevented a return to widespread political violence and laid the foundation for democratic transition (Overcoming Apartheid n.d.). The South African model suggests that conditional amnesty tied to truth telling and public hearings can provide sufficient accountability to break cycles of violence, even if it cannot satisfy all victims’ demands for imprisonment. Lesson for Sudan: The TRC’s “full disclosure” requirement is essential. Any acceptance of RSF personnel must require sworn, public, and detailed testimony about specific crimes—not vague expressions of regret.

4.2. Rwanda: Gacaca Courts for Low Level Perpetrators, Prosecutions for Leaders (2002 2012)

After the 1994 genocide, Rwanda faced a dilemma far more acute than Sudan’s: over 100,000 suspects in detention, a collapsed judiciary, and a society so traumatized that neighbors could not live together without some form of reckoning. The solution was the gacaca court system, a revival of traditional community based tribunals. Gacaca tried approximately 1.2 million low level perpetrators of genocide related crimes. In exchange for confession and guilty pleas, defendants received reduced sentences, often converted into community service. Meanwhile, the International Criminal Tribunal for Rwanda (ICTR) prosecuted the senior political and military leaders, and national courts handled intermediate cases [21]. Gacaca was deeply flawed: due process was often lacking, many innocent people were convicted, and the process retraumatized survivors who had to testify publicly. Yet from a peacebuilding perspective, gacaca succeeded in its core objective: it allowed Rwanda to process an unmanageable volume of cases, to establish a historical record of the genocide, and to reintegrate hundreds of thousands of perpetrators back into communities [22,23]. Without gacaca, Rwanda would likely have faced either indefinite mass detention or a blanket release of unacknowledged killers—both catastrophic.

Lesson for Sudan: The Rwanda model shows the necessity of tiered accountability. Senior leaders responsible for planning and ordering atrocities must face full criminal proceedings (preferably at the ICC). Mid level commanders might face reduced sentences in exchange for truth telling and reparations. Low level conscripts, especially those forcibly recruited, could be processed through community based mechanisms after vetting.

4.3. Colombia: Special Jurisdiction for Peace (JEP) – Restorative Justice for the FARC (2016 present)

Colombia's 2016 peace agreement with the Revolutionary Armed Forces of Colombia (FARC) created the Special Jurisdiction for Peace (JEP)—perhaps the most sophisticated transitional justice mechanism ever designed. The JEP is neither a pure amnesty nor a pure prosecution. It offers reduced, non custodial “restorative sanctions” (eight years of reparative work such as landmine clearance and searching for disappeared persons) to those who fully acknowledge their crimes, provide truth, and commit to non repetition. Those who refuse to acknowledge crimes face up to 20 years in ordinary prison. In September 2025, the JEP issued its first convictions: seven former FARC leaders were found responsible for over 20,000 kidnappings, torture, sexual violence, and enforced disappearances. They received eight year restorative sentences [24]. The UN Human Rights Chief Volker Türk called the convictions “a crucial milestone on the path to accountability” [25].

The JEP's design directly addresses the Devil's Dilemma by creating incentives for truth. The prospect of a non custodial restorative sanction—rather than 20 years in prison—was sufficient to induce FARC leaders to cooperate with the peace process. More than 450,000 deaths had occurred during the five decade conflict. The JEP did not end all violence; dissident FARC factions continue to operate. But the JEP enabled the demobilization of 7,000 FARC fighters, a 70% reduction in homicide rates in former conflict zones, and the establishment of a historical truth about the conflict's crimes [26]. Lesson for Sudan: The JEP model is directly transferable. It shows that conditional sanctions—home detention with GPS monitoring, curfews, mandatory reparative work, and travel restrictions—can provide a meaningful alternative to imprisonment without constituting impunity. The key is that the state must have a functioning monitoring capacity, and the international community must provide verification.

4.4. Liberia and Sierra Leone: The Danger of Unconditional Amnesty

Liberia's experience offers a cautionary tale. In 2003, Charles Taylor was granted amnesty as part of the peace agreement that ended his presidency and sent him into exile. Taylor promptly violated the terms of the agreement, continued to interfere in Liberian and regional politics, and was eventually indicted by the Special Court for Sierra Leone, convicted of 11 counts of war crimes and crimes against humanity, and sentenced to 50 years in prison [27]. The amnesty did not produce peace; it produced a decade of continued instability. As the Sudanese document notes: “Charles Taylor in Liberia was rejected then accepted then became

president—and the war resumed even worse.” The lesson is that unconditional amnesty for top leaders does not pacify them; it merely relocates them to a different arena of influence.

The Lomé Accord in Sierra Leone is an even more direct precedent for Sudan's dilemma. The Accord granted a blanket amnesty to all combatants, including the RUF leadership. The RUF did not disarm; they retained their weapons and their command structures. Within a year, the RUF had launched a new offensive, captured UN peacekeepers, and resumed its campaign of amputations and atrocities. The British military intervention was required to finally defeat the RUF. The Special Court's subsequent annulment of the amnesty confirmed that amnesties for international crimes are legally voidable [13]. But that legal voidability came too late for the thousands killed after the Lomé Accord. Lesson for Sudan: Unconditional amnesty is not a shortcut to peace; it is a guarantee of future violence.

5. Six Sudanese Case Studies: A History of Failed Choices

Sudan has confronted the Devil's Dilemma repeatedly. Each failure offers a warning. This section presents six case studies spanning 1999 to 2024, drawn from primary sources (peace agreements, legislation, UN reports) and secondary analyses.

5.1. The 1999 Amnesty Law – Amnesty Without Accountability

Background: In 1999, the Bashir regime enacted a sweeping amnesty law covering “all those who carried arms or took part in military operations or war” since Sudan's independence in 1956. The law was explicitly designed to bring an end to the second civil war between the north and the south by offering blanket immunity to all rebel combatants. The exclusion clause was narrow: only those “with arrest warrants issued by the International Criminal Court or wanted for genocide or crimes against humanity” were exempted. At the time, no ICC arrest warrants existed for Sudan—the Court would not be established until 2002 and would not issue its first Sudan warrant until 2007. The exclusion was therefore entirely prospective and, in practice, meaningless.

Outcome: The 1999 amnesty did not produce peace. The second civil war continued for another six years, finally ending only with the 2005 CPA—which itself contained no justice mechanism for the war's atrocities. More consequentially, the 1999 amnesty set a precedent: impunity was the default Sudanese response to mass violence. When the Darfur genocide began in 2003, the same regime simply transferred the amnesty logic from the south to the west. The message to commanders of the Janjaweed—the Arab militias that would later be formalized as the RSF—was unmistakable: *you will not be held accountable*.

Failure mode: Amnesty without accountability. Lesson: Unconditional amnesties do not end wars; they incentivize further atrocities.

5.2. The 2005 Comprehensive Peace Agreement (CPA) – Silence as a Choice

Background: The CPA, signed on 9 January 2005, ended the twenty

one year north south civil war. It was a monumental achievement of African diplomacy, paving the way for South Sudan's 2011 independence referendum. But the CPA was "silent on the gross abuses committed during the conflict, many of which constitute crimes under international law" [28]. The agreement contained no provisions for accountability, no truth commission, no reparations mechanism, and no vetting of security forces.

Outcome: The CPA's silence on accountability produced three devastating consequences. First, it enabled the Darfur genocide to occur in parallel—the international community's attention was focused on the north south peace process; Darfur was treated as a subsidiary crisis. Second, it embedded atrocity producing structures within the state: the same Janjaweed militias committing genocide in Darfur became eligible for integration into Sudan's armed forces. Third, it created a legitimacy vacuum that no subsequent peace agreement could fill.

Failure mode: Silence as a choice for impunity. Lesson: Omitted justice is not postponed; it is abandoned.

5.3. The 2019 2021 Transition – The Missed Opportunity

Background: On 11 April 2019, after months of mass protests, the Sudanese military deposed Omar al Bashir, ending his thirty year dictatorship. The transition presented a historic opportunity. The ICC had outstanding arrest warrants for al Bashir (issued in 2009 and 2010), as well as for Abdel Raheem Hussein, Ahmad Harun, Ali Kushayb, and Abdallah Banda. The civilian led government, headed by Prime Minister Abdalla Hamdok, made initial gestures toward accountability. Ali Kushayb surrendered voluntarily in June 2020. For a brief period, it seemed that Sudan might choose the path of conditional accountability.

Outcome: The transitional government attempted a compromise: it would not surrender al Bashir to the ICC, but it would try him domestically. In December 2019, al Bashir was convicted of corruption and sentenced to two years in a correctional facility. He was never tried for the Darfur genocide. As Human Rights Watch (2020) observed, "The continuing failure of Sudanese courts to bring justice for crimes in Darfur makes ICC prosecutions essential." The missed moment was consequential. By failing to hold al Bashir and his inner circle accountable, the transitional government signaled to Hemedti, al Burhan, and their networks that impunity remained the operating norm.

Failure mode: Missed opportunity (partial accountability). Lesson: Partial accountability is insufficient to break cycles of violence.

5.4. The 2021 Coup – Consequences Deferred

Background: On 25 October 2021, General al Burhan and General Hemedti staged a joint coup, dissolving the transitional government and arresting Prime Minister Hamdok. The coup "derailed Sudan's nascent democratic transition, halted transitional justice efforts, and prevented the implementation of security sector reforms that would have integrated the RSF into the Sudanese army" [29].

Outcome: The international response was paralysis. There were no punitive measures against al Burhan or Hemedti. As PAEMA noted, "The international community failed to impose punitive measures against Hemedti, Burhan, or any of the other perpetrators of the 2021 coup, further emboldening the actors." The absence of consequences for the coup directly enabled the April 2023 outbreak of war. Hemedti, having learned that impunity extended even to the overthrow of a civilian government, saw no reason to compromise on the integration of the RSF.

Failure mode: Deferred consequences. Lesson: Failing to enforce accountability shifts costs to a future, more catastrophic conflict.

5.5. The 2020 Juba Peace Agreement – Integration Without Vetting

Background: The Juba Peace Agreement (JPA), signed on 3 October 2020, was intended to end the conflicts in Darfur, Blue Nile, and South Kordofan. It included provisions for power sharing, wealth sharing, and—critically—the integration of armed groups into the security sector. The RSF, though not a party to the JPA, was directly affected by its implementation, as the agreement envisioned a unified national army under civilian control.

Outcome: The JPA "has not pacified conflicts in Sudan, and has instead actually created new alliances between armed groups and security forces" [8]. By offering integration without vetting, the agreement effectively rewarded armed groups for their military capacity, not for their commitment to peace or accountability. The RSF used the JPA's framework to consolidate its position, preparing for the war that would erupt in 2023.

Failure mode: Agreement as ceasefire, not resolution. Lesson: Agreements without accountability are merely ceasefires; they reorganize conflict rather than resolve it.

5.6. The El Geneina Massacres (2023 2024) – Paralysis in the Face of Atrocity

Background: Between April and November 2023, the RSF and allied militias turned El Geneina, the capital of West Darfur, into "a ghost town and an unprecedented massacre for civilians" [12]. According to UN statistics, approximately 15,000 people were killed, including the state governor, whose body was mutilated. The massacres were ethnically targeted, with RSF fighters systematically killing members of the Masalit tribe.

Outcome: The international response was paralysis. The UN Human Rights Office documented the crimes; the ICC prosecutor added them to the ongoing Darfur investigation; but no arrests were made. The perpetrators continued to fight, and in October 2025, the RSF overran El Fasher, massacring thousands more civilians. The El Geneina case demonstrates that atrocities do not end wars; they entrench them. The more atrocities the RSF commits, the harder it becomes for the SAF to offer any form of amnesty or conditional acceptance. Yet the harder it becomes to negotiate, the longer the war continues—and the more atrocities occur.

Failure mode: Paralysis. Lesson: Avoiding the choice is itself a catastrophic choice.

Case Study	Year(s)	Core Dilemma	Outcome	Failure Mode	Lesson
1999 Amnesty Law	1999	Grant amnesty vs. prosecute	War continued; impunity culture	Amnesty without accountability	Unconditional amnesties incentivize future atrocities
2005 CPA	2005	Include justice vs. secure peace	Peace obtained; justice omitted	Silence as choice for impunity	Omitted justice is abandoned justice
2019 2021 Transition	2019 2021	Surrender al Bashir vs. stabilize transition	Domestic trial only; no Darfur justice	Missed opportunity	Partial accountability insufficient
2021 Coup	2021	Sanction vs. preserve stability	No sanctions; 2023 war followed	Deferred consequences	Failure to enforce shifts costs
2020 Juba Agreement	2020 2022	Integrate with vs. without vetting	Integration without vetting; war in 2023	Agreement as ceasefire	Accountability required for resolution
El Geneina Massacres	2023 2024	Accept RSF vs. reject and prolong war	Neither; massacres continue	Paralysis	Avoiding choice is catastrophic

Table 2: Sudanese Case Study Synthesis – Failure Modes and Lessons

6. Analytical Tables: Tiered Accountability and Policy Options

Tier	Category	Examples	Accountability Measure	Security Benefit	Monitor
Tier 1	Forced conscripts, low level fighters	18 year old recruited at gunpoint; no personal atrocity	Community based reintegration; symbolic reparations	Eligible for DDR + vocational training	Local committee oversight
Tier 2	Mid level commanders	Company level commanders whose units committed atrocities	Full public truth telling; reparations from assets; 5 year GPS monitoring; no security positions	Conditional acceptance; no imprisonment if compliant	GPS ankle monitor + judicial supervision
Tier 3	Senior operational commanders	Brigade commanders who planned or ordered specific massacres (e.g., El Geneina)	Hybrid court (AU Sudan); possible reduced sentence for full cooperation	Cooperation leads to restorative sanctions (Colombia model)	ICC referral upon violation
Tier 4	Top leadership and ICC wanted	Hemedti, al Bashir, Harun, Hussein, Kushayb, Banda	Mandatory surrender to ICC; no amnesty, no conditional acceptance.	None – full prosecution	ICC custody

Table 3: Tiered Accountability for RSF Personnel – Conditional Acceptance Model

Scenario	Policy Choice	Probability (Current Assessment)	Projected Outcome (2 5 years)	Casualty Estimate	Justice Outcome
Optimistic	Conditional acceptance with ICC surrender of top 5 10 leaders, strict vetting, GPS monitoring, reparations	20%	War ends within 18 months; RSF mid level commanders demobilize; hybrid court operates; 70% reduction in violence	50,000 additional deaths before peace	Tier 4 leaders in ICC; Tier 2 3 face restorative sanctions; truth commission established
Pessimistic	Blanket rejection of all RSF commanders	25%	War continues for 5+ years; RSF reconstitutes as criminal insurgent network; state fragmentation deepens; external actors re arm both sides	500,000+ additional deaths	No accountability; perpetrators die in combat or flee
Most Likely	Unconditional acceptance without enforcement (repeating Juba model)	55%	Formal peace agreement within 12 24 months; RSF leaders retain weapons and networks; violence persists at lower intensity; collapse into new war within 5 10 years	150,000 200,000 additional deaths before “peace”; then 300,000+ in next war	Impunity institutionalized; ICC warrants ignored

Table 4: Scenario Analysis – Three Paths for Sudan

7. Three Detailed Scenarios for Sudan

7.1. Scenario 1: The Optimistic Path – Conditional Acceptance with International Enforcement

Triggering conditions: The SAF achieves a decisive battlefield victory that isolates Hemedti and his inner circle, forcing them to flee to a third country (e.g., Chad, Libya). The remaining RSF mid level commanders, facing encirclement and defections, open negotiations through African Union mediators. The international community offers a package: debt relief, reconstruction funding, and lifting of sanctions in exchange for ICC surrender of the top tier.

Process:

- **Month 1 3:** Negotiations in Jeddah (Saudi US mediated) produce a framework agreement. Hemedti and his brothers are excluded; they are referred to the ICC.
- **Month 4 6:** RSF Tier 2 and 3 commanders submit to vetting by an AU Sudan hybrid panel. Public hearings begin in Port Sudan, broadcast nationwide. Commanders provide sworn testimony about El Geneina, El Fasher, and other massacres.
- **Month 7 12:** GPS monitoring implemented for 1,500 mid level commanders. Reparations fund capitalized with \$500 million from seized RSF assets (gold mines, real estate). Community based DDR processes reintegrate 30,000 low level fighters.
- **Year 2 5:** Hybrid court convicts 50 senior commanders on reduced restorative sentences (e.g., 8 years of supervised reparative work clearing landmines). ICC trial of Hemedti (in absentia or after extradition) proceeds. Truth commission delivers final report, recommending institutional reforms.

Projected casualties: 50,000 additional deaths before fighting ends (down from baseline of 10,000/month). 100,000 lives saved compared to pessimistic scenario.

Justice assessment: Imperfect but defensible. Victims see some perpetrators punished, others free but restricted. Truth telling provides acknowledgment. The key metric: no return to large scale violence within 10 years.

Likelihood: 20%. Requires coordinated international pressure, Saudi UAE cooperation (currently backing opposite sides), and a military breakthrough that isolates Hemedti.

7.2. Scenario 2: The Pessimistic Path – Blanket Rejection and Protracted Insurgency

Triggering conditions: The SAF, emboldened by popular anger over atrocities, announces a “no negotiation, no surrender” policy. International human rights organizations praise the stance. The ICC issues additional arrest warrants. But the RSF, facing no path to safety, fights to the death.

Process:

- **Month 1 6:** RSF abandons any pretense of political negotiation. Commanders liquidate their Sudanese assets, transfer gold reserves to UAE and Russian intermediaries, and establish forward operating bases in Chad, Libya, and the Central African Republic.

- **Year 1 3:** The conflict transforms from a civil war between two armies into a regionalized insurgency. The RSF adopts terrorist tactics: ambushes, hostage taking for ransom, and ethnic cleansing of border areas to create “safe zones.” The SAF cannot control Darfur or Kordofan; it holds Khartoum and the Nile corridor.
- **Year 4 5:** Famine spreads across western Sudan. Fourteen million displaced become twenty million. The UN declares a “Level 3” humanitarian catastrophe—the highest classification. International donors, facing donor fatigue from Ukraine and Gaza, underfund the response.
- **Year 5 10:** The RSF evolves into a transnational criminal insurgent network, similar to the Lord’s Resistance Army but on a larger scale. It controls gold and human trafficking routes. Periodic SAF offensives fail. Sudan becomes a failed state in permanent low intensity conflict.
- **Projected casualties:** 500,000+ additional direct war deaths; 1 2 million famine related excess deaths.

Justice assessment: None. Perpetrators die in combat, flee to safe havens, or live as criminal warlords. Victims never see a courtroom. Likelihood: 25%. Requires continued international paralysis and an SAF overestimation of its own military capacity.

7.3. Scenario 3: The Most Likely Path – Unconditional Acceptance (Repeating the Juba Mistake)

Triggering conditions: The war grinds to a stalemate. Neither SAF nor RSF can achieve a decisive victory. Saudi Arabia and the UAE, exhausted by the conflict’s spillover effects, force both sides to the negotiating table. The resulting agreement follows the Juba model: a blanket amnesty for all RSF commanders except those already indicted by the ICC (a meaningless exclusion, as Sudan has never surrendered ICC indictees).

Process:

- **Month 1 6:** A ceasefire is announced. RSF commanders remain in their positions, controlling Darfur and Kordofan. The agreement calls for “integration” of RSF into the SAF over five years—the same timeline Hemedti demanded in 2022.
- **Year 1 3:** The RSF does not disarm. It uses the ceasefire to resupply, recruit, and consolidate economic control of gold mines. The SAF, also exhausted, does not enforce integration terms.
- **Year 4 5:** Low level violence continues—attacks on villages, assassinations of local officials, banditry. The international community declares the peace a “qualified success” because large scale fighting has stopped.
- **Year 5 10:** The underlying rivalry between al Burhan and Hemedti (or their successors) re emerges. A new trigger—perhaps a dispute over gold revenues or oil—leads to the collapse of the integration agreement. War resumes, worse than before, because both sides have spent the “peace” rearming.

Projected casualties: 150,000 200,000 additional deaths during the “low intensity peace”; then 300,000+ in the next major war.

Justice assessment: Impunity institutionalized. The 2020 Juba Agreement’s mistakes are repeated on a larger scale.

Likelihood: 55%. This is the path of least resistance. It requires no difficult choices, no ICC surrender, no painful truth telling. It also guarantees a future war.

8. A Third Path: Conditional Acceptance – Operational Pillars

Neither pure rejection nor pure acceptance is acceptable. The only defensible path is conditional acceptance—a “yes, but” approach. This paper proposes four operational pillars, derived from the comparative and Sudanese case studies, with specific implementation timelines and institutional requirements.

8.1. Pillar 1: Strictly Vetted Disarmament, Demobilization, and Reintegration (DDR)

Policy: Every RSF fighter seeking surrender or integration must pass through a vetting process conducted by a mixed panel of Sudanese judges, African Union experts, and civil society representatives. The panel has access to ICC evidence, UN Fact Finding Mission documentation, and victim testimony. Fighters are categorized into the four tiers shown in Table 3. Operational requirements: DDR must be internationalized—not merely “internationally monitored” but operationally administered by a UN AU joint mission. The government’s own peace initiative, presented to the UN Security Council in 2025, already envisions “the consolidation of militia forces in designated camps ... under the oversight of the United Nations, the African Union, and the Arab League” [30]. The camps must have independent human rights monitors, not just military observers. Sudan’s previous DDR failures (2005 2007) were due to lack of international enforcement; this must not be repeated [31].

Timeline: Vetting panels operational within 3 months of a framework agreement. DDR camps established within 6 months. Full demobilization of Tier 1 and 2 fighters within 18 months.

8.2. Pillar 2: Full Truth Telling and Public Acknowledgment

Policy: Any RSF commander seeking conditional acceptance (Tier 2 or 3) must provide sworn, complete, and public testimony about specific crimes: where, when, what orders were given, who was killed, where bodies are buried. Testimony is given in a public hearing (with victim safety protections). False or incomplete testimony voids the conditional acceptance and triggers prosecution [32].

Rationale: The South African TRC and Colombian JEP both demonstrate that truth is a substitute for punishment—not a complete substitute, but a necessary condition for any reduced sentence [19,24]. Truth telling serves four functions: (1) it provides victims with acknowledgment of their suffering; (2) it creates a historical record that counters denial; (3) it allows families to locate and bury their dead; (4) it disrupts the perpetrators’ ability

to maintain secrecy and command authority.

Challenge: The RSF will resist public testimony as a matter of honor and operational security. The negotiating leverage must be: no integration, no security guarantee, no financial benefit without full disclosure [33-35]. The Colombian case shows that when the alternative is 20 years in prison, most commanders choose the restorative route.

Timeline: Truth commission established within 6 months of framework agreement. Hearings begin within 12 months. Final report within 36 months.

8.3. Pillar 3: Reparations from Perpetrator Assets

Policy: All RSF personnel admitted under conditional acceptance (Tiers 1 3) must contribute financially to a Victims’ Reparations Fund. Contributions are calculated based on rank, duration of service, and documented crimes of the unit. Funds are raised from: (1) personal assets seized under judicial order; (2) a percentage of any future income or pension; (3) community service contributions valued in monetary terms. The Fund is administered by a multi stakeholder board including victims’ representatives, UN agencies, and the AU.

Rationale: Reparations are not a substitute for punishment but a necessary complement. The Colombian JEP requires FARC leaders to perform eight years of reparative work (landmine clearance, searching for disappeared persons) as a condition of restorative sanctions [24]. Rwanda’s *gacaca* courts ordered community service as a sanction for lower level genocide perpetrators [21]. In Sudan’s devastated economy, in kind reparations can include: the return of stolen land and livestock; the construction of schools, clinics, and water infrastructure; and mandatory service in humanitarian demining or victim support.

Timeline: Reparations fund established within 3 months. Asset seizure process initiated within 6 months. First reparations payments (in kind) within 12 months.

8.4. Pillar 4: ICC Surrender for Top Leadership and Time Bound Monitoring

Policy: The top 5 10 RSF leaders—Hemedti (Mohamed Hamdan Dagalo), his brothers, the former Janjaweed commanders already indicted by the ICC (Ali Kushayb, Ahmad Harun, Abdel Raheem Hussein, and any other individuals against whom the ICC has outstanding arrest warrants)—are not eligible for conditional acceptance under any circumstances. They must be surrendered to the ICC. The ICC has had arrest warrants for al Bashir, Harun, Hussein, and Banda outstanding since 2007 2009; Sudan has consistently refused to cooperate. Any peace agreement that does not include surrender of these individuals will be legally void under the Kallon precedent and will reproduce the Liberia error [36]. For Tier 2 commanders granted conditional acceptance, a five year monitoring period applies. Conditions include: GPS ankle monitors; prohibition on leaving designated districts without permission; no contact with active RSF members; regular check

ins with a judicial supervision officer. Any violation (e.g., re engaging in violence, attempting to flee, intimidating witnesses) triggers immediate referral to the ICC or a hybrid court.

Why five years? The South African TRC's experience suggests that the first three to five years after a transition are the most volatile. If a perpetrator can abide by restrictions for five years, the probability of recidivism drops substantially. The Colombian JEP's eight year restorative period provides a benchmark; five years is a minimum [37].

Timeline: ICC surrender negotiations initiated immediately. Monitoring program operational within 6 months of framework agreement.

8.5. Institutional Mechanism: Hybrid Court or Enhanced ICC Cooperation?

The optimal institutional design for Sudan would be:

- ICC: Handles Tier 4 (Hemedti, al Bashir, Harun, Hussein, Kushayb, Banda). Sudan should negotiate a surrender agreement, perhaps with the incentive of debt relief or lifting of sanctions.
- Hybrid Court (AU Sudan): Handles Tier 3 (senior commanders not yet indicted by the ICC). Modeled on the Extraordinary Chambers in the Courts of Senegal (which tried Hissène Habré) or the Special Court for Sierra Leone. Judges would include a majority of Africans but not exclusively Sudanese, to ensure perceived impartiality [38].
- Vetting Committee (for conditional acceptance candidates): A non judicial administrative body that determines eligibility for restorative sanctions (Tier 2). Its decisions are subject to appeal to the Hybrid Court.
- Truth Commission: A parallel body, modeled on South Africa's TRC, that takes victim testimony, issues a comprehensive report, and makes recommendations for institutional reform.

9. The Role of External Actors: Spoilers or Enablers?

No analysis of Sudan's dilemma is complete without examining the external actors who fund, arm, and shield the RSF and SAF. The UAE has been the RSF's primary backer, supplying weapons via Chad and Uganda [8]. Russia's Wagner Group (now "Africa Corps") has provided the RSF with surface to air missiles and intelligence [39]. Saudi Arabia has backed the SAF, viewing the RSF as a threat to its Red Sea interests. These external patrons have turned Sudan into a proxy battlefield. Any conditional acceptance framework must include incentives and disincentives for external actors. The UAE should be offered a choice: continued support for the RSF will result in sanctions and exclusion from Western financial systems; cooperation with ICC surrender and conditional acceptance will result in normalized trade relations and investment guarantees. Russia, isolated by Ukraine sanctions, has less leverage; the AU should threaten to revoke Russia's observer status if Wagner continues to arm the RSF.

The international community's failure to impose consequences after the 2021 coup emboldened both al Burhan and Hemedti. That mistake must not be repeated. Any future obstruction of conditional

acceptance—by the SAF, the RSF, or their foreign backers—must trigger automatic, pre announced sanctions.

10. Conclusion: The Responsibility to Choose the Less Wrong Sudan has confronted the Devil's Dilemma six times since 1999. Each time, it has chosen a path that seemed easier in the moment—amnesty without accountability, silence, partial measures, deferred consequences, agreements without enforcement, paralysis. Each time, the consequence has been a more destructive war a few years later. The current war has already killed more Sudanese than any conflict since the second civil war. It has displaced fourteen million people and pushed thirty three million to the brink of famine. The choice now is not whether to offer conditional acceptance to RSF commanders. That choice, in some form, will be made—because neither side can achieve total military victory. The real choice is whether conditional acceptance will be structured with enforceable accountability mechanisms or granted unconditionally.

The Sudanese case studies prove that unconditional acceptance (1999, 2005, 2020) produces future wars. The comparative cases (Rwanda, Colombia) prove that conditional acceptance, while imperfect, can break cycles of violence. The optimistic scenario is achievable—but only if the SAF, the AU, and the international community act now, before the next El Geneina occurs.

The only unforgivable error is to pretend that the choice is easy. It is not. But the historical record offers clear guidance: justice delayed is not justice abandoned—if the delay saves lives. But justice forgotten, in exchange for a handshake with a killer, is the seed of the next war.

Sudan has six failures behind it. It cannot afford a seventh.

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