



5 December 2007

**Statement of Mr. Luis Moreno Ocampo,
Prosecutor of the International Criminal Court,**

to the United Nations Security Council

pursuant to UNSCR 1593 (2005)

Mr. President, Excellencies

Thank you for the opportunity to brief the Council on the activities of my Office.

On 31 March 2005, this Council determined that 'the situation in the Sudan continued to constitute a threat to international peace and security', and 'decided to refer the situation in Darfur to the Prosecutor of the International Criminal Court'.

On 5 April 2005, I met with the UN Secretary General in New York to receive a sealed envelope with the conclusions of the UN Commission of inquiry and a list of 51 names. I read the document and sealed it again. As the Prosecutor of an independent Court, I could not and did not use this list in my subsequent work.

Before opening an investigation, in accordance with the principle of complementary, my Office reviewed whether there were national proceedings related to allegations of serious crimes in Darfur. Having found no such proceedings, I opened a first investigation in June 2005.

We examined allegations of crimes committed by all parties. We focussed our efforts on the most serious crimes, which occurred in 2003-2004. We investigated brutal attacks against the villages of Mukjar, Bindisi, Arawala and Kodoom. We looked impartially at incriminating and exonerating facts. We identified direct victims of crimes living in 17 countries, eyewitnesses who gave strong evidence. We collected evidence from a wide range of sources including the Government of the Sudan. We interviewed Sudanese officials in Khartoum and were provided with the report of the National Commission of Inquiry as well as a report from the Ministry of Defence.

After that, my Office continued to assess whether or not the Sudan investigated the case(s) selected by the Prosecution. My Office also met with all Judges and the Prosecutors of the Darfur Special Courts, We met with the Minister of Justice.

In December 2006, I informed this Council that I was ready to submit evidence to the Judges by February 2007. I indicated however that my Office would go to the Sudan to check again information on national proceedings. The mission to Khartoum took place from 27 January to 7 February 2007 and found that no investigations in the Sudan addressed our case.

On 27 February, I presented my evidence to the Judges.

On 27 April, the Pre-Trial Chamber of the International Criminal Court issued arrest warrants against Ahmad Harun, former Minister of State for the Interior of the Sudan, and Ali Kushayb—a Militia/Janjaweed leader— who committed crimes against humanity and war crimes.

The Pre-Trial Chamber found that the case fell within the jurisdiction of the Court and was admissible, without prejudice to future challenges under the Statute. Since then, the Court has received no communication from the Sudan concerning national proceedings. There has been no challenge to admissibility from either the Government or from Ahmad Harun or Ali Kushayb.

The Court transmitted the request to execute the warrants to the Government of the Sudan on 16 June 2007. Interpol Red Notices were subsequently disseminated.

On 17 October, the Registry submitted a request to the Sudan for an update as to “activities undertaken in the execution of the warrants and as to any difficulty which may have arisen”, with a time limit of 15 November. The Court has received no response from the Sudan.

Mr President,

Under the terms of Resolution 1593, “the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully and provide any necessary assistance to the Court and the Prosecutor pursuant to [this] resolution.” The Sudan, a member of the United Nations, has the legal obligation to cooperate to arrest and surrender Ahmad Harun and Ali Kushayb, and has the ability to do so.

Mr President

I report today to the Security Council that the Government of the Sudan has not complied with its legal obligations.

The Government of the Sudan has not complied with Resolution 1593.

The Government of the Sudan is not cooperating with my Office, or the Court.

Ahmad Harun and Ali Kushayb have not been arrested and surrendered. While the Sudan continues to publicly insist that it is willing and able to prosecute those responsible for serious crimes, they have done nothing. While the Sudan has known the nature of the case against Ahmad Harun and Ali Kushayb for ten months, they have done nothing. They have taken no steps to prosecute them domestically, or to arrest and transfer them to The Hague.

Ali Kushayb, against whom the Government had previously indicated that there was an investigation, was reported on 30 September by the media to have been “released for lack of evidence”.

Regarding Ahmad Harun all public information indicates that he would neither be surrendered to the ICC nor subject to national proceedings. The media reported in August a statement by Minister of Interior Bashir Taha, that “he has been interrogated but the evidence against him does not stand scrutiny, and whether it does or not, it is a matter for Sudan to decide and act upon. The Prosecutor has no jurisdiction here. He is an intruder.”

Even more serious, there are expressions of support in Khartoum in Harun’s favour. Since the issuance of the warrants, Ahmad Harun has been maintained in his current position of Minister of State for Humanitarian Affairs; he is even acting Minister since the withdrawal of the SPLM from the Government. He accompanied President Bashir to Darfur on 18 June 2007. He—along with the Minister of Interior and Director General of the Police—attended the 5 September meeting when President Bashir appointed Nafie Ali Nafie to the Darfur portofolio in charge of the talks in Sirte; on this occasion Ahmad Harun reported on the “improvement” of the humanitarian situation in Darfur. He was also appointed in September to a Committee on human rights violations and breaches of the constitution in the south and north.

There is more, with potential risks for the peace keeping operations. As of 18 November, the government official website announced that Ahmad Harun has now been appointed to the UNAMID national monitoring mechanism group, overseeing the deployment of UNAMID.

Mr President,

The Sudan, a UN Member State, has not complied with its obligation under Resolution 1593 to arrest and surrender the indictees.

The Government of the Sudan is repeatedly challenging the Council’s authority to give jurisdiction to the International Criminal Court. On 1 November, in the General Assembly, the Representative of the Sudan, Ambassador Abdalhaleem Mohamad, stated that since the Sudan was not a member of the Rome Statute, the Court held no jurisdiction there. I will ask the Council to ensure respect for Resolution 1593.

Mr. President

In June, I informed the Council that my Office would monitor current crimes. Today, I will give you as much clarity as possible on the next steps. I hope that such information will be useful to your work.

In our first case, we demonstrated how in 2003-2004 Ahmad Harun, as Minister of State for the Interior, coordinated a criminal system. He recruited and used Militia/Janjaweed to supplement the Sudanese Armed Forces, and incited them to attack civilians.

In Darfur today, massive crimes continue to be committed.

I am therefore preparing to open two new investigations.

First, we have consistent indicia showing a pattern of attacks by Sudanese Officials against civilians, in particular against those 2.5 million people forcibly displaced into camps..

Second, we have reports of an increasing number of attacks against humanitarian personnel and peace keepers, as happened in Haskanita, with rebel involvement.

Mr President,

Let me give you further details on those forthcoming investigations.

First, we will investigate present acts of violence against civilians, in particular the victims of displacement. We are witnessing a calculated, organized campaign by Sudanese officials to attack individuals and further destroy the social fabric of entire communities. All information points not to chaotic and isolated acts but to a pattern of attacks.

We cannot and we should not deny reality. Calling those crimes chaos or 'sporadic violence' or 'inter-tribal clashes' is a cover up.

Mr President,

The campaign of terror of 2003- 2004 has achieved the forced displacement of 2.5 million people. Most of the villages have been burned down. But in Darfur today, in the few remaining villages, civilians are still being attacked and forced to flee.

Examples include the joint attack on Muhajiriya by allied GoS forces and Militia/Janjaweed on 8 October 2007, just two months ago. 48 civilians were

killed, people praying in a mosque rounded up and slaughtered. This was not an inter-tribal clash. The Sudanese airforce bombing of Adilla in August 2007 producing 20,000 new displaced persons was not an inter-tribal clash.

Mr President,

In the camps, 2.5 million victims already displaced are subjected to persecution and abuses –sexual violence, illegal detentions, unlawful killings.

Far from disarming the Militia/Janjaweed as it committed to, the GoS has for the most part integrated them into its security apparatus and has stationed them in the vicinity of camps. Rapes of women when they leave the camps are systematic. This is not an inter-tribal clash.

Mr President,

In the camps, 2.5 million victims are deliberately kept in a state of destitution. Obstacles to the delivery of aid are part of the pattern of attacks.

Mr President,

In the camps, 2.5 million persons are deliberately kept in a state of insecurity, surrounded by hostile forces, threatened with forced relocation to hostile territory.

Instead of upholding their promises of facilitating returns, Sudanese officials are said to facilitate settlement of Militias/Janjaweed supporters on land inhabited previously by Fur and Masalit. In addition, approximately 35,000 Chadians have also been encouraged to settle in destroyed villages or surrounding land. Fur, Masalit and Zaghawa are thus deprived of a safe place to return. Resettlements are consolidating the displacements.

Victims are faced with two options: remaining under attack in the camps or going back to hostile territory. They are left with no hope for the present and no prospect for the future. This is how the slow destruction of entire communities is pursued.

In full sight of the international community.

Mr President,

The Sudan is not fulfilling its duty to protect its citizens, and is allowing members of the Government to attack them.

As Minister of State for Humanitarian Affairs, Ahmad Harun, a man indicted by the International Criminal Court, is responsible for providing relief, for working with international aid organizations, and for coordinating with relevant security organs the security in the IDP camps. Formally, he shares responsibility for the safety and well-being of the displaced population. In reality, he joins in constant abuses against them.

The Humanitarian Aid Commission, or HAC, a component of the Ministry for Humanitarian Affairs, comprising mostly security personnel, is allowed to enter and gather intelligence within the camps. They promote organized disturbances with the assistance of factions close to the Government. Then, as international actors and Sheiks try to find solutions, the camps are raided by security forces. Those are not inter-tribal clashes.

Ahmad Harun himself was present during specific operations against IDP camps in past months. He was in Nyala on 20 August, as arrest operations started in Kalma. This was not an inter-tribal clash.

Mr President,

All indicia show that so-called eruptions of violence and in-fighting in the camps reflect a well designed strategy.

Local civilian leaders are killed or arrested, to undermine any structuring within the camps.

Attempts are made by Sudanese officials to dismantle the big camps, including by trying to forcibly relocate the displaced. We witnessed the same modus operandi in Kalma and Hamadiya in past months. The objective? To disperse the inhabitants of the bigger camps into smaller groups, easier to control.

The HAC also plays a pivotal role in hindering humanitarian assistance. Aid workers must have HAC permission to enter the Sudan and then Darfur. HAC manages the complex system of permits to access camps. When international staff exposes the reality, they are expelled. There is no connection with inter-tribal clashes.

Let me remind you, the HAC is nothing new in the Sudan. In fact, it is similar to the Peace and Resettlement Association (PRA) created in South Kordofan

in the 1990s. The PRA had close links to national security, was dominated by former security staff, oversaw IDP camps, and collected information to prepare attacks on villages. Ahmad Harun was PRA Executive Director from 1997 until 2000

Mr. President

In Darfur in 2003- 2004, we witnessed the first phase of the criminal plan coordinated by Ahmad Harun. Millions of people were forced out of their villages and into camps. In the second phase – happening right now in front of our eyes –the victims are attacked in the camps. Ahmad Harun is a key actor. But he is not alone.

Failure to take any step to investigate or arrest him, failure to remove him from office are clear indicia of the support Harun receives by other high officials.

Failure to protect persons displaced from constant attacks by Militia/Janjaweed and GoS agents, failure to facilitate deployment of those peace keepers who could protect the victims are clear indicia of endorsement, acquiescence or active participation by other high officials.

My Office will proceed to investigate who is bearing the greatest responsibility for ongoing attacks against civilians; who is maintaining Harun in a position to commit crimes; who is instructing him. This is my second case.

Mr President,

Let me address our other new investigation.

On 29 October, 10 soldiers of the AU Mission in Sudan, AMIS, were killed, 8 injured and 1 unaccounted after the attack on their Haskanita base. The incident appears to have been committed by rebel forces. It represents an increasing trend in attacks against AU, UN and other international workers by various forces, a trend which my Office is monitoring with concern. Attacks on humanitarian convoys have a devastating effect.

Such attacks or threats of attack on peacekeepers and aid personnel will be investigated by my Office. They can constitute a war crime under the Statute. They also further undermine efforts to protect the civilian population.

We note with concern that the Sudan is taking no measures to protect international forces. There are allegations that some Sudanese aircraft have been painted with UN or AU colours and are used in Darfur. Such acts—among others—undermine the UN and AU, create the impression of collusion and can encourage attacks against them.

Mr President,

I wish to take this opportunity to ask all Members of the UNSC, all Member States of the UN, and all relevant organizations to volunteer specific information and thus assist us in conducting our two new investigations.

Mr. President

Let me address further the issue of cooperation.

First, I want to thank all those who have responded to our requests for information on possible movements of our indictees. I am pleased to report that no State has been reluctant to share information.

Regarding cooperation with the African Union, Deputy Prosecutor Fatou Bensouda and I met with members of the African Group in New York. I thank South Africa for having hosted such meetings. On 20 June 2007, I updated the President of the AU, Ghanaian President Kufuor on our work in Darfur. We also met with the Representative of Congo in August in his then capacity of President of the UNSC.

Since June, the Deputy Prosecutor and I have met respectively with UN Secretary-General Ban Ki-Moon and Deputy Secretary-General Migiro. I am very grateful for the Secretary-General's efforts to remind President Bashir of his obligation to execute the arrest warrants. .

Since June, I have also briefed the EU and Ministers of EU Member States. I have continued constructive exchanges with the Secretary-General of the Arab League, as well as with its Member States, on international criminal justice. I have been invited to visit a number of States in the region next year. Their support to the independence and impartiality of my work is invaluable.

Mr. President, Excellencies

I have informed the Security Council today that the people from Darfur are attacked by members of the Government in their homes and in the camps. This is the reality.

Ahmad Harun, a man charged with 50 counts of crimes against humanity and war crimes should not be entrusted with his victims' lives. He must be arrested.

Maintaining Harun in his position is clear indicia of collusion with other officials. Who is taking responsibility for supporting him? This is the new case I will bring to the judges.

Maintaining Harun in his position is a direct threat to millions of victims and to the humanitarian workers and peacekeepers seeking to protect them.

When will be a better time to arrest Harun?

How many more women, girls, have to be raped?

How many persons have to be killed?

Must we really wait, again, for the destruction of entire communities?

I ask the Security Council for consistency. I ask the Security Council to send today a strong and unanimous message to the Government of the Sudan, requesting compliance with Resolution 1593, requesting the execution of the arrest warrants. The same consistency is needed throughout the UN. It would be both inaccurate and confusing to convey in any way to the GoS that the arrest warrants and the obligation to comply with Resolution 1593 will go away.

The only realist solution today is to request the removal and arrest of Harun as a first step to any solution. It will send a signal to the perpetrators of crimes in Darfur that the international community is not only watching, but will hold them accountable for their actions. You can make a difference; you can break the criminal system. What is at stake is, simply, the life or death of 2.5 million people.

Thank you