



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

***Prosecutor's Statement on the Prosecutor's Application for a warrant of Arrest
under Article 58 Against Omar Hassan Ahmad AL BASHIR***

The Hague, 14 July 2008

Good afternoon Ladies and Gentlemen.

I have submitted to the Judges an application for the issuance of an arrest warrant against Omar Hassan Ahmad AL BASHIR, for genocide, crimes against humanity and war crimes. The Pre-Trial Chamber 3, consisting of Judges Akua Kuenyehia of Ghana, Sylvia Steiner of Brazil and Anita Ušacka of Latvia, will now assess the evidence. They will decide. I am just requesting an arrest warrant, they will decide whether or not to grant one. They can dismiss my application, agree totally or partially. They can ask me for more evidence. Normally it take 2 or 3 months, but this a complex case.

Let me present the case; the second case of this Office in relation to the situation in Darfur.

AL BASHIR bears criminal responsibility:

- for genocide under Article 6 (a), killing members of the Fur, Masalit and Zaghawa ethnic groups, (b) causing serious mental harm, and (c) deliberately inflicting conditions of life calculated to bring about their physical destruction in part;
- for crimes against humanity, including acts of (a) murder, (b) extermination, (d) forcible transfer of the population, (f) torture and (g) rapes; and
- war crimes for intentionally directing attacks against the civilian population and pillaging.

The jurisdiction of the Court comes from a referral by the UN Security Council. Security Council Resolution 1593 of March 2005 stated that justice and accountability are critical to achieve lasting peace and security in Darfur. A month ago, in a Presidential statement, the UN Security Council unanimously reiterated the importance of Resolution 1593.

In accordance with the principle of “complementarity”, the Prosecution has assessed the existence of national proceedings in the Sudan in relation to those crimes. There are none. The only officers AL BASHIR really wanted investigated were those who refused to comply with his orders to commit genocide.

Ladies and gentlemen,

In Darfur, AL BASHIR promoted the idea of a polarization between tribes aligned with him, whom he called “Arabs”, and the Fur, Masalit and Zaghawa, whom he called “Zurgas” or “Africans”. The image is only one of many used by AL BASHIR to disguise crimes. Both, victims and perpetrators are in fact “Africans” and speak “Arabic”.

AL BASHIR assessed that the Fur, Masalit and Zaghawa constituted a threat to his power: members of the three groups engaged in armed rebellions. AL BASHIR’s motive was control of power. His pretext was a ‘counterinsurgency’. His intent was genocide.

In March 2003, AL BASHIR decided and set out to destroy in part the target groups, on account of their ethnicity. He publicly instructed the army to quell the rebellion and not to bring back any prisoners or wounded.

There is an armed conflict in Darfur. The Government of Sudan is engaged in a military campaign against two rebel armed movements. Both rebel groups mainly recruit from the target groups. The Government has the right to use force to control its territory, but it cannot use genocide as a means to do so. Since 2003, AL BASHIR's forces purposefully targeted civilians who were not participants in any conflict.

The crimes

Forces and agents controlled by AL BASHIR attacked villages mainly inhabited by the target groups.

The targeting of the Fur, Masalit and Zaghawa is blatant. The land historically occupied by them defined the target. 98 percent of the villages inhabited predominantly by members of the target groups were attacked and destroyed. The attackers went out of their way to spare from attack so-called "Arab" villages, even where they were located very near to the targeted towns.

Ladies and Gentlemen,

The total population of Darfur for 2003 is about 6.4 million. Assuming a consistent growth, the three target groups in 2003 amounted to approximately to 2.5 million individuals. As a result of the attacks, 2.7 million people have been forcibly expelled from their homes. As survivors fled the attacks, they were pursued into deserts, killed or left to die. 2.5 million reached the camps. Among them, a substantial number were part of the target groups.

Data from refugee camps and IDPs camps within Darfur confirm that most of those refugees and displaced persons in the region belong to the target groups.

Why is this genocide?

In January 2005 the United Nations Commission of Inquiry stated there would be no policy of genocide if "the populations surviving attacks on villages ... live together in areas selected by the government...where they are assisted." The current evidence shows that the target groups are also attacked in the camps.

AL BASHIR has selected his weapons; they are:

- rape
- hunger
- fear

They are the most efficient method of destruction, in the face of international scrutiny.

Rapes, gang rapes, are used as a weapon to destruct the target groups in and around the camps. Women and girls going to collect firewood, grass or water are raped by Militia/Janjaweed, Armed Forces and other Government of Sudan security agents. A victim explains: "when we see them, we run. Some of us succeed in getting away, and some are caught and taken to be raped -- gang-raped. Maybe around 20 men rape one

woman. These things are normal for us here in Darfur. They rape women in front of their mothers and fathers.”

Babies born as a result have been termed “Janjaweed babies”. The high number of such unwanted babies has led to an explosion of infanticides. As one victim summarised: “they kill our males and dilute our blood with rape. They want to finish us as a people, end our history”. As depicted by yet another victim: “those who rape you wear uniforms and those who protect you wear uniforms. We don’t know any more who to run from and who to run to.” As described by the ICTR in the *Akayesu* case, rape is used to kill the will, the spirit, and life itself.

The attacks on villages across Darfur from March 2003 destroyed the very means of survival, in particular access to water. The attackers then pursued victims into the hills and the desert. A victim in the desert overheard one attacker say to another: “Don’t waste the bullet, they’ve got nothing to eat and they will die from hunger”.

The attackers not only expelled and persecuted them, they also usurped their land. One victim was told: “This land is liberated and you have no land and no right to cultivate on liberated areas”. The removal from the land and the subsequent spoliation of the land is destructive of the fabric of the groups, whose identity is linked with the land.

Finally, the victims are attacked in the camps. AL BASHIR systematically refuses to provide any meaningful Government aid, and hinders other efforts to bring aid. The Ministry of Humanitarian Affairs and the HAC within the Ministry, which work in close association with the intelligence apparatus have blocked the publication of nutrition surveys, delayed the delivery of aid, expelled relief staff denouncing such acts, and created bureaucratic obstacles to the delivery of aid for 5 years.

AL BASHIR does not need gas chambers, bullets or machetes. This is Genocide by attrition.

Ladies and Gentlemen,

AL BASHIR is President of the Republic of the Sudan, exercising both *de jure* and *de facto* sovereign authority, Head of the National Congress Party and Commander in Chief of the Armed Forces. He appointed the Governors of all 26 states of the Sudan and they reported to him directly. He sat at the apex of the state’s hierarchical structure. He had absolute control.

As Commander in Chief, AL BASHIR ordered the incorporation of most of the Militia/Janjaweed into the reserve forces.

Individuals who refuse to commit crimes are dismissed and replaced or even prosecuted. In contrast, AL BASHIR provides a guarantee of impunity to those who follow his orders, critical to ensure the continuation of the genocide. Ahmad Harun said that AL BASHIR had given him the power to kill three quarters of Darfuris in order to allow one quarter to live. Harun coordinated the attacks against the villages during 2003-2005. Since September 2005, Harun is responsible for the camps. He is a key element of both aspects of the genocide: the attacks on the villages and the attacks

on the camps. In June 2007, AL BASHIR announced publicly that he would never hand over Harun to the ICC; to the contrary, Harun would continue working in Darfur to implement his orders.

Ladies and Gentlemen,

The crime of genocide is a crime of intention. **AL BASHIR has the intention to destroy the target groups. We don't need to wait.**

Ladies and Gentlemen,

AL BASHIR has denied and concealed the crimes. He labels them as total fabrications. He insists that "It is not in the Sudanese culture or people of Darfur to rape. It doesn't exist. We don't have it". He claims that people in Darfur lead a normal life. By preventing the truth about the crimes; by concealing his crimes under the guise of a 'counterinsurgency', or 'inter tribal clashes', or the 'actions of bandits'; by threatening Sudanese citizens and trying to blackmail the international community into silence, AL BASHIR makes possible the commission of further crimes. As a Prosecutor, I don't have the luxury to look away.

What will happen now? As I said, the Judges will assess the evidence.

I have heard, like you, the threats of the Sudanese authorities, against the civilians, against the peacekeepers, against the aid workers. The criminals acknowledge their own crimes and threaten with more. A man exercising total control, a man committing genocide, is standing in the way of justice, peace, and security for the Darfuris.

Thank you.