

THE INTERNATIONAL CITIZENS' TRIBUNAL FOR SUDAN

CASE NUMBER: ICTS-1

THE PROSECUTOR

AGAINST

**OMAR HASAN AHMAD AL-BASHIR
PRESIDENT OF THE GOVERNMENT OF SUDAN**

INDICTMENT

This indictment concerns a military regime that is criminal to its core. Since its violent assumption of power in 1989, the Government of Sudan has intentionally launched, orchestrated, and knowingly enabled a consistent pattern of gross human rights abuses against innocent segments the Sudanese civilian population. As detailed more fully in this Indictment, these abuses include widespread and systematic murders; deportations and forcible transfers of entire communities; enslavement; torture; rape; persecution; the destruction of civilian property without military necessity; pillage; and the deliberate infliction of adverse conditions of life. This pattern and practice of abuses rises to the level of crimes against humanity, genocide, and war crimes under international criminal law. At all times relevant to this Indictment, civilians have been the intentional and primary object of these attacks. In particular, these abuses have targeted a number of minority tribal groups expressing opposition to, or perceived to be in opposition to, the Government of Sudan and its hegemonic control over the country, including the Fur, Massaleit, Zaghawa, Tunjur, and Dajo people of Darfur; the peoples of the Nuba Mountains; the Dinka people; the Nuer people; the people of the Shilluk Kingdom; and the Beja people of East Sudan.

The defendant **OMAR HASAN AHMAD AL-BASHIR** sits at the apex of this repressive military dictatorship. **AL-BASHIR** exercises effective authority, command, and control over all regular and irregular armed and police forces within the Government of Sudan. In addition, **AL-BASHIR**'s government has deployed, supported, aided and abetted a number of militia and paramilitary groups, including the so-called *janjaweed* and *Murahaleen* in Darfur and elsewhere as agents of the Government of Sudan to advance the Government's repressive and genocidal aims while at the same time enabling deniability on the part of the Government. In light of these facts, as set forth in greater detail below, the Prosecutor of the International Citizens' Tribunal for Sudan hereby charges:

OMAR HASAN AHMAD AL-BASHIR

With **CRIMES AGAINST HUMANITY, GENOCIDE, and VIOLATIONS OF THE LAWS AND CUSTOMS OF WAR** as set forth below.

THE ACCUSED

1. **OMAR HASAN AHMAD AL-BASHIR** as the President of Sudan is the “supreme commander of the People’s Armed Forces and other regular forces” pursuant to Article 43 of the Sudanese Constitution. Accordingly, **AL-BASHIR** is the highest authority with respect to strategic military matters, internal security, and the deployment of armed and police forces within the Sudan. Thus, at all relevant times, **AL-BASHIR** exercised effective command, authority, and control over the groups and individuals who directly committed the crimes set forth in this Indictment. In addition, and in the alternative, **AL-BASHIR** aided, abetted, conspired with, shared a common purpose with, and/or entered into a joint criminal enterprise with the individuals and groups that directly committed the crimes set forth in this Indictment.

2. The Prosecutor does not allege that **AL-BASHIR** physically or personally committed all the crimes charged below, nor do international law or the Statute of this Tribunal so require. “Committing” in this Indictment instead refers to intentional or knowing participation as co-perpetrator, either as an accomplice, as a member of a joint criminal enterprise, as a member of a group sharing a common criminal purpose, or as a superior exercising effective authority, command, and control over subordinates. In contributing to the commission of the crimes charged, the accused intended to further the criminal activity or common purpose of the group or individuals directly responsible for committing the crimes within the jurisdiction of this Tribunal. In the alternative, the accused knew of the criminal intent of the group or individuals actually responsible for these acts and knowingly and purposefully contributed to the criminal purpose.

CRIMES COMMITTED AGAINST THE PEOPLE OF DARFUR

3. In February 2003, loosely federated rebel groups, calling themselves the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), declared open rebellion against the Government of Sudan because they were excluded from the power- and wealth-sharing agreements emerging from North-South peace negotiations in connection with the Second Sudanese Civil War. The Government responded with a counter-insurgency campaign directed primarily at civilian targets. This campaign coincided with the emergence on the international scene of the *janjaweed*—roving militia on horse- and camelback with deniable ties to the central authorities.

4. The *janjaweed* have worked in close coordination with Sudanese land and air forces to empty, plunder, and destroy over 1000 villages in North and South Darfur. The violence and destruction of everyday life is staggering. *Janjaweed* and government troops have systematically murdered, raped, mutilated, starved, driven from their homes, and robbed of all their possessions, including more than 2 million head of livestock, Non-Arab (and non-combatant) Darfuris of the Fur, Massaleit, Zaghawa, Tunjur, Dajo, and other tribes. These combined and coordinated forces have destroyed hundreds of mosques, targeted imams, and in several instances killed all the men of a village as they prayed together.

5. The high degree of violence in Darfur led the United Nations Security Council by Resolution 1564 to direct the Secretary-General to form a Commission of Inquiry to “investigate

reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable.” During November 2004 and January 2005, the Commission sent investigative teams to Sudan to hold meetings with representatives of the Government, the Governors of the Darfur States and other senior officials in the capital and at provincial and local levels, members of the armed forces and police, leaders of rebel forces, tribal leaders, internally displaced persons, victims and witnesses of violations, NGOs, and United Nations representatives. On January 25, 2005, the Commission issued its Report, which found that the Government of Sudan was responsible for crimes against humanity and war crimes on a mass scale in Darfur. Although it could not conclude that the government had implemented a policy of genocide, the Commission did reserve consideration of whether individual members of the government, armed forces, or armed militia may have harbored and acted with genocidal intent.

6. The International Commission of Inquiry on Darfur also reported in January 2005 that of a total population of 6.3 million in a region the size of France, more than 1.65 million were internally displaced and another 200,000 had fled to neighboring nations such as Chad, where they had become refugees. The United Nations High Commissioner on Refugees stated in its most recent report on the region that, because of the “rapidly deteriorating situation” in Darfur, the number of refugees and internally displaced persons grew at an alarming rate during 2005. The number of refugees and internally displaced persons in the region is therefore undoubtedly now much higher than the already alarming numbers reported by the Commission. The International Commission of Inquiry on Darfur cited hundreds of reported incidents involving the killing of civilians, massacres, summary executions, rape and other forms of sexual violence, torture, abduction, looting of property and livestock. The Commission furthermore reported that government and *janjaweed* attacks have destroyed hundreds of villages and hamlets. Tens of thousands of innocent civilians have died as a result of these attacks. Furthermore, with their farms, villages, and livestock destroyed and with humanitarian personnel unable to deliver the food and medical assistance, hundreds of thousands more have fallen prey to conditions of famine and disease. As a result, prominent NGOs such as Amnesty International have recently estimated that the conflict in the region has directly or proximately caused as many as 285,000 deaths, while other experts argue that the number is as high as 450,000. These numbers continue to rise as this Indictment is issued.

CHARGES

7. By these acts and omissions, **AL-BASHIR** planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparations or execution of the following **CRIMES AGAINST HUMANITY**:

- Count 1: **EXTERMINATION**
- Count 2: **MURDER**
- Count 3: **PERSECUTION**
- Count 4: **DEPORTATION**
- Count 5: **RAPE and SEXUAL VIOLENCE**
- Count 6: **TORTURE**

8. By the acts and omissions with respect to the Dinka people, **AL-BASHIR** planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparations or execution of the following:

Count 7: ENSLAVEMENT

9. By these acts and omissions, **AL-BASHIR** planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparations or execution of the following:

Count 8: GENOCIDE

10. By these acts and omissions undertaken in connection with the internal armed conflict in Darfur, **AL-BASHIR** planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparations or execution of the following **WAR CRIMES**:

Count 9: MURDER and VIOLENCE TO LIFE AND PERSON

Count 10: COMMITTING OUTRAGES UPON HUMAN DIGNITY

Count 11: INTENTIONALLY DIRECTING ATTACKS AGAINST THE CIVILIAN POPULATION

Count 12: INTENTIONALLY DIRECTING ATTACKS AGAINST CIVILIAN OBJECTS

Count 13: PILLAGE

Count 14: RAPE and SEXUAL VIOLENCE

Count 15: ORDERING THE DISPLACEMENT OF CIVILIANS

CONCLUSION

11. By these acts and omissions, President defendant **OMAR HASAN AHMAD AL-BASHIR** should be decreed guilty of crimes against humanity, genocide, and war crimes.

Respectfully submitted,

David Kilgour
Beth Van Schaack
Eric Ortner
Office of the Prosecutor

Dated this day the 30 of September, 2006