

**STATEMENT OF THE PROSECUTOR OF THE INTERNATIONAL  
CRIMINAL COURT, MR. LUIS MORENO OCAMPO, TO THE UN  
SECURITY COUNCIL PURSUANT TO UNSCR 1593 (2005)**

**Mr. President, Excellencies**

Thank you for the opportunity to brief the Council again on the activities of my Office. Since my report in December last year, I presented evidence to the Judges of the International Criminal Court on 27 February 2007.

The Judges rendered their decision on 27 April 2007. They found that the evidence presented offered reasonable grounds to believe that Ahmad Muhammad Harun, former Minister of State for the Interior, and Ali Muhammad Ali Abd-Al-Rahman, otherwise known as Ali Kushayb—a Militia/Janjaweed leader—joined together to persecute and attack civilians in Darfur. The Prosecution’s case demonstrated how Ahmad Harun organised a system through which he recruited, funded and armed Militia/Janjaweed to supplement the Sudanese Armed Forces, and incited them to attack and commit massive crimes against the civilian population; the Prosecution’s case demonstrated that Ali Kushayb, by personally delivering arms and leading attacks against villages, was a key part of that system. Acting together, they committed crimes against humanity and war crimes.

The Judges have issued warrants of arrest against Mr. Harun and Mr. Kushayb. In accordance with the Court’s decision, the Registry is in the process of transmitting requests for cooperation to execute the warrants.

The ongoing situation in Darfur remains alarming. There are 4 million people in need of humanitarian assistance in the region, constituting *two thirds* of the population of Darfur. There are 2 million internally displaced people, immensely vulnerable. There are continuing attacks against them and against international workers, as well as frequent impediments by the authorities to the delivery of assistance. Presiding over this dire situation is the same individual sought by the Court, Ahmad Harun, now Minister of State for Humanitarian Affairs.

This is the same man who, in 2003, at a public meeting, declared that in being appointed to the Darfur Security desk, he had been “given all the power and authority to kill or forgive whoever in Darfur for the sake of peace and security.”

The law requires the appearance of Ahmad Harun and Ali Kushayb in Court. This major challenge demands the unconditional cooperation of all. The Security Council and regional organizations must take the lead in calling on the Sudan to arrest the two individuals and surrender them to the Court. The territorial State, the Sudan, has the legal obligation and the ability to do so. And we count on every state to execute an arrest should either of these individuals enter their territory. We hope that the cooperation of the Sudan with the ICC can be addressed during the Security Council’s mission to Khartoum.

The Darfur situation requires a comprehensive solution. The ICC is doing its part. The Office will complete its first investigation and will continue to evaluate information about current crimes. As the Rome Statute emphasizes, justice for past and present crimes will enhance security in Darfur.

**Mr. President**

The Darfur investigation has been ongoing for just over 2 years. My Office has conducted an independent and impartial investigation. The Office has focussed on some of the most serious crimes and the individuals, who, according to the evidence collected, bear the greatest responsibility for those crimes. Our case focuses on incidents in 2003 and 2004 when the highest number of crimes were recorded.

Crimes were committed in Darfur in the context of an armed conflict between the Sudanese security forces, along with the Militia/Janjaweed, against organised rebel groups, including the Sudanese Liberation Army and the Justice and Equality Movement. From 2003 on, the conduct of the counter-insurgency campaign resulted in attacks against mainly the Fur, Masalit and Zaghawa civilian population who were deemed to support or sympathise with the rebels. Acting together in this campaign,

the Sudanese armed forces and Militia/Janjaweed carried out attacks in Kodoom, Bindisi, Mukjar and Arawala, approximately between August 2003 and March 2004.

They did not target any rebel presence within these villages. Rather, they attacked those villages based on the rationale that those civilians were supporters of the rebels. This strategy became the justification for the mass murder and mass rape of civilians who were known not to be participants in any armed conflict. It achieved the forced displacement of entire communities.

In its decision on 27 April, the Pre-Trial Chamber determined there are reasonable grounds to believe that Ahmad Harun and Ali Kushayb are criminally responsible for the crimes described by the Prosecution, namely 51 counts of crimes against humanity such as persecution, murder, rape and other forms of sexual violence, torture, cruel treatment, unlawful imprisonment, pillaging and forcible transfer of civilians and war crimes such as rape, intentionally attacking civilians and pillaging.

### **Mr. President**

Ahmad Harun was appointed Minister of State for the Interior shortly after the April 2003 rebel attack on the Al Fashir airport. He was also tasked to head the “Darfur Security desk.” He had gained experience, mobilising and recruiting Militia to serve in counter-insurgency efforts whilst in Kordofan, South Sudan in the 1990s. State and local Security Committees in Darfur, which were comprised of representatives of the Army, the Police and intelligence agencies, reported to Ahmad Harun, especially on matters relating to the staffing, funding, and arming of the Militia/Janjaweed in the context of the counter-insurgency. Ahmad Harun recruited Militia/Janjaweed and incited them to violence with full knowledge that they, often in the course of joint attacks with the Sudanese Army, would commit crimes against the civilian population.

Ali Kushayb, “Aqid al Oqada,” or “colonel of colonels,” in the Wadi Salih locality of West Darfur, personally led Militia/Janjaweed during attacks on the 4 villages mentioned, presiding over summary executions and massive rapes.

## **Mr. President**

The next step should be the arrest and appearance of Mr. Harun and Mr. Kushayb in Court, followed by proceedings relating to confirmation of charges. The investigation into this case continues, in preparation for further proceedings.

In parallel, to uphold its duties under article 68 (1) to protect victims and witnesses, the Office, in liaison with the Registrar, continues to monitor the security of witnesses and to implement protective measures. We are thankful for the help of international partners. Let me also reiterate in this context the importance of witness relocation agreements.

In addition, as indicated in my December 2006 report, the Office is continuing to gather information about current crimes committed by all the parties to the conflict in Darfur and is monitoring the spill-over of violence in Chad and the Central African Republic, which are both States Parties to the Rome Statute. Let me emphasize in this respect a number of strong concerns:

First, in Darfur, there are allegations of indiscriminate and disproportionate Sudanese Government air strikes from January through April, with some villages bombarded for as long as ten days; there are allegations of crimes by rebel forces, including against international personnel; there are reports of attacks against internally displaced persons, in particular the rape of women venturing outside the camps; there is information about local clashes, some allegedly motivated by efforts to reward those collaborating with the Militia/Janjaweed. We are conducting preliminary judicial analysis of all of this.

From the information gathered, it appears that the parties to the conflict continue to violate international humanitarian law. Attacks on the AU Mission in Sudan (AMIS), as well as attacks on UN staff and international workers are well documented, such as the one that occurred on 19 January in Nyala or more recently on 27 May in Al Fashir with the targeted killing of an Egyptian UNMIS peacekeeper. In just over three months, between early February and early May, eleven AU peacekeepers or police officers lost their lives and five were seriously wounded. In addition, numerous aid

workers have been assaulted and beaten, their vehicles hijacked. I emphasize that attacks on humanitarian personnel are prohibited under international humanitarian law and constitute a war crime within the jurisdiction of the ICC. The Office reiterates that those bearing the greatest responsibility must be brought to justice. It is of particular concern to my Office that, Ahmad Harun, an individual sought by the Court for atrocities committed against the civilian population, atrocities which forced their displacement, is still today the Minister of State for Humanitarian Affairs with the responsibility to monitor and affect these vulnerable people, and the international personnel helping them. I ask the Council to address this unacceptable situation during their mission to Khartoum.

Second, in Eastern Chad, the Office has gathered data on reported attacks in the villages of Tiero and Marena in March 2007 and attacks on refugee camps. Incursions from Militia/Janjaweed from the Sudan have been reported, as well as the presence of Sudanese rebels in Chad and the presence of Chadian rebels in the Sudan. Any alleged crimes taking place in 2007, since Chad became a State Party, are subject to the ICC's jurisdiction.

Third, on 22 May, my Office announced the opening of an investigation in the Central African Republic. This investigation is focussed on crimes allegedly committed in the years 2002 to 2003, where there was a large-scale commission of crimes including massive rapes. My Office is also monitoring the situation throughout CAR, including reports of violence in the north since 2005. On the border with Darfur, there have been incidents of violence in the context of allegations of support to rebel groups from the Sudan.

### **Mr. President**

Since my first report to the Security Council in June 2005 the Office has devoted considerable efforts to assessing whether its case was admissible under the Statute. Let me emphasize as I have in the past that this admissibility assessment is not a judgement on the Sudanese justice system as a whole, but an assessment of whether the case selected by the Prosecution has been or is being investigated by the Sudan.

The Prosecution has followed closely all accountability initiatives of the Sudanese authorities. In a series of exchanges with the Government of the Sudan, the Office sought updates on the status of national proceedings. The Sudanese Ministry of Justice reported in a 9 December letter that fourteen persons had been arrested in relation to incidents in South Darfur and West Darfur. Ali Kushayb was one of those named in connection with these incidents.

In a 27 January to 7 February 2007 mission to Khartoum to analyse those developments, the Office met with the Minister of Justice, the Under-Secretary for the Ministry of Justice, the Chief Justice of West Darfur and the President of the Special Court for West Darfur. We interviewed the three special advisers of the Judicial Investigations Committee.

The Prosecution's case is concerned with Ahmad Harun and Ali Kushayb joining together as part of a systematic and organized initiative to attack civilian populations in Darfur. There is no investigation in the Sudan into such criminal conduct. No proceedings have taken place in relation to Ahmad Harun. And the investigation on Ali Kushayb does not relate to the same incidents as those investigated by the Office; it does not connect Ali Kushayb to Ahmad Harun. The Sudanese investigations do not encompass the same persons and the same conduct which are the subject of the case before the Court.

The Pre-Trial Chamber concluded that the case against Ahmad Harun and Ali Kushayb falls within the jurisdiction of the Court and appears to be admissible.

### **Mr. President**

Paragraph 2 of Resolution 1593 requires the Government of the Sudan and all other parties to the conflict in Darfur to cooperate fully with, and provide necessary assistance to, the Court and the Prosecutor.

Since the beginning of our investigation, the participation of the Government of the Sudan in the process has been important to ensure a full picture of the events in Darfur. A degree of cooperation has been forthcoming. However, requests for

assistance remain outstanding, including requests to question Ahmad Harun and Ali Kushayb. In a 15 February letter, Minister of State for Foreign Affairs Ali Karti confirmed the Government's refusal to allow for such questioning.

Major interlocutors of the Government of the Sudan have encouraged them to assume their responsibility to cooperate with the ICC. We are grateful for their support. In a 17 April letter, the Office sought clarification from the Sudanese Government as to its intention whether or not to cooperate. No response was forthcoming; on the contrary, a number of statements were made publicly and continue to be made to the effect that the Government of the Sudan would not work with the Court.

### **Mr President**

Paragraph 3 of Resolution 1593 invites the Court and the African Union to discuss practical arrangements for facilitating the work of the Prosecutor and the Court, including the possibility of conducting proceedings in the region.

The Office has met regularly with African States and with representatives of the African Union. The President of the Court, the Prosecutor and the Registrar have been invited to brief the AU Permanent Representatives Committee on 1 March. I am grateful for the support of the AU Presidency in this regard. The President of the Court, the Registrar and I will meet with AU President, Ghanaian President John Kufuor on 20 June.

Discussions are also progressing in relation to the conclusion of a Memorandum of Understanding dealing with the general relationship between the Court and the AU.

Other contacts have been helpful. The Office has benefited from exchange of views with Special Envoys Jan Eliasson of the United Nations and Salim Salim of the African Union.

I am regularly briefing the Secretary-General of the Arab League, as well as the Member States of the League. Their understanding of the independence and impartiality of the Office is and will continue to be crucial.

The Court continues to improve its understanding of local communities.; this was the purpose of the Registrar's recent visit to Chad. Relevant Court documents have been translated into Arabic and disseminated, also for that purpose.

**Mr. President, Excellencies**

In Resolution 1593, the Security Council concluded that justice and accountability are critical components to achieving lasting peace in Darfur.

The Office is now moving forward to finalise its preparations for pre-trial proceedings against Mr. Harun and Mr. Kushayb. The key is their arrest and surrender.

The Office relies on the Security Council, on the UN Member States, on the States Parties to the Rome Statute, and on its key partners—the African Union and the League of Arab States—to call on the Sudan to arrest and surrender Ahmad Harun and Ali Kushayb to the International Criminal Court.