

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

*Statement to the United Nations Security Council
pursuant to UNSCR 1593 (2005) - 5 June 2008*

Mr. President, Excellencies

Introduction: from principles to action

As in the past, I am grateful for this opportunity to give the Council clarity on the activities undertaken by my Office and on the activities planned.

This is an historic opportunity. As I brief you today in the Council chambers, the Assembly of States Parties to the International Criminal Court is in session in New York, and Security Council members are in Africa. They have just met with the Government of the Sudan in Khartoum.

This is an historic opportunity. 10 years ago, countries from all over the world adopted the Rome Statute creating the ICC. They sent a new and powerful message. There can be no impunity for perpetrators of genocide, crimes against humanity or war crimes.

Three years ago, the Security Council referred the Darfur situation to the Court. They sent an even more concrete message. There can be no impunity for perpetrators of massive atrocities in Darfur.

Today we have an historic opportunity to confirm those messages, to move from principles to action.

Massive crimes are still being committed in Darfur. Girls are still being raped. Children die as their schools are bombed. The entire Darfur region is a crime scene. Despite promises and denials, over the last five years, millions of civilians have been targeted by officials who vowed to protect them. Impunity reigns.

Today we have an historic opportunity to confront those massive crimes. My Office received a mandate from this Council. This mandate is justice. I am fulfilling my mandate. I have collected compelling evidence. The evidence will identify those most responsible for crimes against civilians in Darfur in particular the Fur, Masalit and Zaghawa. I inform the Council that I will present a second case to the Judges in July.

Past investigative activities – complementarity

Mr President,

My Office has a duty not to intervene when national authorities are conducting national proceedings. This is the principle of complementarity. The Sudan claimed that it would investigate and prosecute perpetrators of crimes. Various Courts and investigative mechanisms were created. However, the Office has found no trace of Sudanese proceedings during the last three years in relation to our case. The Government itself has clarified that there were none.

In April 2007, the Judges of the ICC issued arrest warrants against Ahmad Harun, former Minister of State for the Interior, and Ali Kushayb, a Militia Janjaweed leader, for crimes against humanity and war crimes.

It was an opportunity for the Sudan to break the criminal system unveiled by the Court, to surrender the indictees, to start proceedings against lesser perpetrators. This opportunity was lost.

Non cooperation of the Government of the Sudan

Mr President,

The Sudan, a United Nations member, has the legal obligation and the ability to arrest and surrender Ahmad Harun and Ali Kushayb. I report today that the Government of the Sudan is not cooperating with the Court. There has been no improvement since December.

The Government of the Sudan is not complying with Resolution 1593. The Government of the Sudan does not recognize the jurisdiction of the Court, a jurisdiction that this Council granted. As of today, and even to Security Council members in Khartoum, Sudanese officials insist that “the ICC has no jurisdiction over Sudan”.

Impunity is not an abstract notion. Ahmed Harun is attacking the victims in the camps. As Minister of State for Humanitarian Affairs, he is hindering humanitarian aid. As a member of the UNAMID oversight committee, he is affecting the deployment and safety of peacekeepers. As a member of the NCP-SPLM Committee, he was sent to Abyei to manage the conflict. And Abyei was burned down, 50.000 citizens displaced.

The Sudanese Government accepted UNAMID peacekeepers and aid workers in Darfur. The same Government is promoting Ahmad Harun.

The Sudanese Government tolerates the firefighters and promotes the arsonists at the same time. The international community cannot ignore the arsonists; if they remain, there will never be enough firefighters.

This Council has the power to ensure the cooperation of the Sudan. The issue of arrests has to be central in any conversation with the Sudan. It is the first step. The Council must make publicly clear that the two fugitive indictees and those who protect them will not benefit from any lenience, any support from the international community.

The new investigations

Mr. President,

In December, I informed the Council that my Office was opening two new investigations.

In our second investigation, we have collected evidence showing a pattern of attacks by Sudanese officials against civilians, in particular against those 2.5 million people forcibly displaced into camps. In our third investigation, we have focused on the Haskanita attack, attributed to rebels. Let me give you further details.

The investigation into the attacks against civilians

In Darfur, the evidence shows an organized campaign by Sudanese officials to attack civilians, in particular the Fur, Massalit and Zaghawa, with the objective to physically and mentally destroy entire communities. Over a period of 5 years, they have been relentlessly attacked throughout Darfur. Attacked in their villages. Attacked in the camps. Their land usurpated.

The first phase of attacks in 2003- 2004 has affected 4 million people. Since 2005, villages are still being attacked.

What is the difference between those two phases? A simple one: there are fewer villages left to burn and loot, less civilians to terrorize and kill.

But the tactics remain: the Sudanese army in coordination with the air force and Militia Janjaweed attack civilians. In 2008 alone, they have displaced more than 100.000 civilians from the villages of Abu Suruj, Sirba, Seleia, Aro

Sharow, Kandare, Kurlongo, Sheged Karo. Schools, markets, water installations have been hit. Homes have been burned.

Such attacks are sufficient to keep the entire population terrorized. They are sufficient to demonstrate to the displaced their total vulnerability.

Such attacks are calculated to drive entire groups to inhospitable areas, where they die immediately, or into camps, where they die slowly.

Mr President,

In the camps, crimes and insecurity are organized. Far from being disarmed, the Militia Janjaweed are integrated into the Sudanese security apparatus and stationed in the vicinity of camps.

Rapes of women are systematic. The health consequences and the perceived shame of rape are in effect destroying physically and biologically the communities.

Destitution is organized Surveys—when Sudanese officials agree to their release—indicate that malnutrition rates exceed emergency threshold, especially for children under five.

Community leaders and teachers are the first to be targeted during attacks. This is a policy to ensure that all links binding communities together are torn.

Usurpation of land is systematic. Sudanese officials are not facilitating the return of people displaced. Sudanese officials facilitate settlement of groups affiliated with Militia Janjaweed on Fur, Masalit and Zaghawa land. The census crystallizes the situation, potentially creating a new demography. Displaced persons are concerned that new occupants could gain rights to the land. They resist the census. In Kalma, Karandj and Abozr camps, violence has been used to force the population to accept the census.

Combined with the impunity of perpetrators and the official denial of the crimes, the resulting mental harm for victims is devastating. The groups disintegrate.

Mr President,

Sudanese officials protect the criminals and not the victims. Denial of crimes, cover up and attempts to shift responsibility have been another characteristic of the criminal plan in Darfur. We have seen it before.

The Nazi regime invoked its national sovereignty to attack its own population, and then crossed borders to attack people in other countries.

In my own country, Argentina, the military dictatorship had a well-documented strategy to disguise the criminal system of disappearances. They denied the crimes, they minimized their crimes, they denied the involvement of members of the Government in the crimes and finally they proposed to forget the crimes and focus on political-solutions.

Remember also Karadzic's Directive 7, instructing his army to create a situation of total insecurity with no hope of survival for the people of Srebrenica, while making sure their acts would not create international outcry. The main instruction was to discretely reduce support to UNPROFOR.

There is no end to the imagination employed in such cover ups. In my written reports, I have provided statements of Sudanese officials to the effect that the situation in Darfur is stable, that the provision of aid and the deployment of peace keepers proceed smoothly, that only 10,000 died since the beginning of the conflict, that all attacks find their origin in rebel acts or mistakes by UNAMID and that political negotiations will solve all problems.

The evidence shows a different picture.

The evidence shows that the commission of such crimes on such a scale, over a period of five years, and throughout Darfur, has required the sustained mobilization of the entire Sudanese state apparatus.

The coordination of the military, security and intelligence services.

The integration of the Militia Janjaweed.

The participation of all Ministries.

The contribution of the diplomatic and public information bureaucracies.

The control of the judiciary.

The investigation into attacks against peace keepers and aid personnel

Mr President,

Let me address now our other investigation into the crimes committed against the peacekeepers, the aid workers. Those who came to help the Darfuris. The list of attacks is long. On 29 May in Al Fashir, the memorial for the 61 African Union Peacekeepers who lost their lives in Darfur was unveiled. My Office is determined to bring those responsible to justice.

Evidence is not yet sufficient to go to the Judges. But we have information that the October 2007 killing of 10 African peacekeepers in Haskanita was committed by two rebel splinter factions. This requires corroboration. Requests for additional information were sent to the AU and the UN as well as to individual States and others.

Such requests are confidential but allow me to ask publicly that all actors respond as early as possible. The 23 May attack on Nigerian peacekeepers, the killing of a Ugandan peacekeeper make it all the more urgent to ensure accountability. Increased attacks targeting aid personnel and peacekeepers could lead us to extend the scope of the investigation.

I am concerned as well about allegations of recruitment of child soldiers. Child recruitment is a crime which can engulf entire generations in conflict.

Next judicial steps

Mr. President,

Let me now clarify for the Council the next judicial steps. I will proceed to the Judges in July and present my evidence on who are those most responsible for the crimes described. It will be a public application. The decision will rest with the Judges. In previous cases, the Judges have taken from one to three months to decide on the merits of the evidence.

International Cooperation

Mr President,

Before I conclude, let me address the issue of international cooperation.

I want to thank all those who have responded to our requests for information, including on tracing the indictees, and all those who have publicly or in bilateral meetings with the Sudanese explained the importance of enforcing the warrants.

Those States have helped the victims, the Court, and the Sudan.

I am grateful for AU Chairperson Konare's efforts and I look forward to working with his successor, Jean Ping. Deputy Prosecutor Bensouda is invited to Sharm el Sheikh. I have met and will meet with the Foreign Minister of Tanzania, a steadfast supporter and the current AU President

I underline the UN Secretary-General's efforts to address with President Bashir the obligation to execute the arrest warrants. Secretary General Ban Ki Moon, working for a comprehensive solution in Darfur and the Sudan, has consistently shown his vision and conviction that respect for the lives of Sudanese citizens is at the centre of any such solution.

On 16 June, I will address the General Affairs and External Relations Council of the EU. The Slovenian presidency has been outstanding in putting impunity at the forefront of the EU agenda. The support of European Parliamentarians has also been strong as illustrated by their resolution calling for measures against those who obstruct the work of the Court

I met the Secretary-General of the Arab League, as well as many Member States. They have played a key role; as friends and neighbours of the Sudan, as supporters of international law and justice for all the citizens of the world. They provide aid to the victims, they provide resources to the peacekeepers, and they have lost soldiers. I confirmed to them that I will fulfil my mandate independently and impartially. Their respect is crucial to my Office.

Security Council Members and all countries with strong ties with the Sudan can do more to bring justice to the Darfuris and the Sudanese people.

Conclusion

Mr President,

Let me conclude. A rebellion is going on in the Sudan. Under international law, a Government has the right and the responsibility to maintain control of its territory. There is no doubt about that.

But there is no military justification for bombing schools, no legal excuse for raping women. Those crimes have been carefully prepared, and efficiently implemented. Those are not mistakes. Those are not inter-tribal clashes. Those are not cases of collateral damage. Those are, simply, criminal acts against civilians, unarmed civilians.

Citizens from the Sudan are being deliberately attacked by Sudanese officials. In the words of Harun, the people of Darfur are the enemy. Their own State is attacking them. If the international community does not protect the Darfuris, they will be eliminated.

Mr President,

It takes a lot to commit massive crimes. It takes planning and organization. It takes commanders and many executioners. But mostly, it requires that the rest of the world look away and do nothing. This Council, when it requested my Office to intervene in Darfur, acted in a decisive way, thinking of the Darfuris, but remembering also Rwanda, and Srebrenica. At the Council's request, my Office will present new evidence exposing the facts and identifying those most responsible.

Based on those facts, I ask the Security Council to send a strong message to the Government of the Sudan and to issue a Presidential statement.

Requesting that they stop the crimes

Requesting that they arrest Ahmed Harun and Ali Kushayb.

Requesting that all parties assist the Court

Requesting, simply, compliance with UNSCR 1593.

Silence has never helped or protected victims. It only helps the criminals.

Thank you