



Box 4417
Annapolis, MD 21403
(410) 268-6988
www.survivorsrightsinternational.org

SUDAN ALERT:
January 28, 2002

AN INTERNATIONAL CRIMINAL TRIBUNAL FOR SUDAN SHOULD BE ESTABLISHED

Since seizing power via a military coup in 1989, the National Islamic Front (NIF) government has waged war against its own citizens. The NIF is engaged in a genocidal policy of indiscriminately bombing humanitarian and other civilian sites such as churches, hospitals, schools, and relief sites; deliberately withholding food from those who refuse to convert to Islam; forcibly displacing entire populations; tolerating slavery, enlisting fierce militia groups to scorch towns and kill, rape and terrorize villagers; instigating warfare amongst ethnic groups; and persecuting its people on the basis of race, religion and ethnicity. The government of Sudan is committing unspeakable atrocities upon its own citizens at an alarming rate that has only escalated in recent years.

Numerous government officials, human rights organizations, and religious leaders have reported on these war crimes and recognized their genocidal implications for innocent civilians in Sudan. An estimated 2 million people have died, and another 4 million have been internally displaced as a result of war, and the numbers continue to climb. Both parties to the war have committed grave atrocities, however, the NIF bares responsibility for the majority of atrocities that have been committed. The gravity of crimes committed by the Sudanese government against civilians has created one of the world's greatest humanitarian catastrophes.

An International Criminal Tribunal should be formed for Sudan. The U.S. Ambassador at Large for War Crimes, Pierre-Richard Prosper, reportedly stated that the Bush Administration was seriously considering establishing a tribunal for Sudan.¹ Ambassador Prosper reiterated that amnesty for heinous atrocities was no longer a viable option for these criminals under international law. Establishing an ad hoc war crimes tribunal for

¹ Norman Kempster, "U.S. May Back Creation of Special Atrocity Tribunals," *L.A. Times*, August 2, 2001, at <http://www.sudan.net/news/posted/3155.html> (accessed August 30, 2001).

Sudan would send the message to Sudanese officials that the U.S. is serious in its efforts to pressure Khartoum to immediately cease the commission of atrocities against innocent civilians. Among several other vital directives designed to end the conflict in Sudan and to provide assistance in various forms to the victimized population, the Sudan Peace Act (H.R. 2052) contains provisions that direct the Administration to investigate war crimes. Sudan would greatly benefit from the formation of an independent war crimes tribunal.

Most of the atrocities committed by the government of Sudan in the south since 1986 were in the name of jihad and have been perpetrated so as to effectively eliminate masses of civilians. Moreover, experts on Sudan commonly discuss today the near complete extermination of an entire people—the Nuba of central Sudan. Justice and accountability for genocide, crimes against humanity, and war crimes is absolutely essential to any diplomatic initiative aimed at halting atrocities in Sudan. Any sustainable eradication of genocidal atrocities in Sudan committed by the government, or any sustainable eradication of state-sponsored terrorism in Sudan requires reliable and effective mechanisms that will establish a system of greater accountability and justice capable of independently judging perpetrators.

Sudan is in grave violation of international humanitarian law; namely, the Convention on the Prevention and Punishment of Genocide; crimes against humanity under customary international law and as defined in the Statutes of the International Military Tribunal at Nuremberg, the International Tribunal for the Far East, the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court; and Common Article 3 of Protocol II of the Geneva Conventions Governing the Rules and Conduct of War. Under authority of Chapter VII of the United Nations Charter, the Security Council may authorize military intervention to enforce international law in situations that threaten international peace and security.

Grave breaches of international law such as genocide have previously prompted the Security Council to intervene to halt atrocities and violations of fundamental norms of international law in several conflicts: the former Yugoslavia, Rwanda, East Timor, and Iraq to name a few. (The number of deaths as a result of the war in Sudan surpasses all of these conflicts combined.) Similarly, under Chapter VII authority, the Security Council has authorized international criminal tribunals to be formed. The establishment of the Nuremberg Tribunal and the Tokyo Tribunal following World War II, and more recently, the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the emerging tribunals for Sierra Leone and Cambodia, set the precedent for the establishment of an international tribunal for Sudan to prosecute grave breaches of humanitarian international law, genocide, and crimes against humanity. Furthermore, case law arising as early as from the Nuremberg Tribunals has clearly established genocide, crimes against humanity, and grave breaches of the Geneva Conventions as crimes that threaten international peace and security.

Several of the genocidal atrocities being perpetrated against innocent civilians fall disproportionately on non-Muslims and non-Arabs, opposed to the government's fundamentalist Islamic rule and terror and Arabization campaign for imposing policies of

severe persecution. Numerous war crimes have targeted non-Muslims and non-Arabs in several churches and schools on the Christian holidays of Christmas and Easter. Christians have been crucified, tortured, and gang raped in churches because of their religion. In addition, many non-Muslims are regularly forced to convert to Islam or face starvation.

Following the terrorist attacks on the U.S. and the formation of the new cooperative alliance with Sudan to root out terrorism, Sudan has continued to bomb civilian sites, including areas where the U.N. distributes food, and has reaffirmed its commitment to jihad. Immediately following the terrorist attacks on America of September 11th, Khartoum dropped 260 bombs in the Nuba Mountains region using Antonov bombers followed by helicopter gunships. The government has not backed down from its brutal bombing campaign over the past two years. Recently, a new peace agreement for the Nuba Mountains has been negotiated, however, this agreement only concerns the Nuba Mountains and does not encompass a negotiated settlement to the war being waged throughout southern Sudan. Any negotiated peace settlement for the war in Sudan should contain mechanisms of justice and accountability for atrocities committed during the war.

A sure sticking point in resolving the war remains Khartoum's unwillingness to ensure religious freedom from Shari'a or political rights to non-Muslims or Muslims opposed to the regime's fundamentalism and its radical methods of enforcement via genocide. The NIF government is using oil export revenues to bolster its military with heavier weaponry, and to in turn, use this weaponry with increasing frequency against innocent civilians in southern and central Sudan that are opposed to the government's imposition of Islam as the supreme law of the land absent the de facto protection from severe persecution. Thus, Sudan surely believes that one imperative element in winning this war is to continue to increase oil export revenue to purchase deadlier military weapons to kill or ethnically cleanse the remaining Sudanese population that it believes to be a threat to the hard-lined National Islamic Front rule.

Furthermore, Sudan should not be considered to be a trustworthy diplomatic partner by the U.S. in any regard until its anti-terrorist credentials have been thoroughly vetted. Sudan is an undisputed state-sponsor of terrorism that targets the U.S. and has strong financial, loyal, and radical Islamic ties to terrorism, not to mention a longstanding affiliation with the elusive bin Laden. Khartoum's deep seeded policy of supporting terrorism, and its renewed commitment to jihad, as evidenced in the continuation of its civilian bombing campaigns and the deployment of mujahideen forces to raze, enslave, rape and kill civilians on religious, racial, ethnic, and political grounds make Sudan a threat to international peace and security.

The U.S. recently supported the lifting of U.N. travel sanctions on Sudanese diplomats. As a result, Sudan was recently invited to travel to Russia to shop for weapons and has reportedly purchased new sophisticated, heavy artillery. The roots of terrorism in Sudan are embedded in its ruling military regime's overall state policy. Initially, several Iraqi and Iranian terrorist groups were invited to come train and reside in Sudan as part of the government's national security endeavors. Foreign terrorist groups were merged into

Sudan's military forces in effort to bolster defense and to ensure the imposition of their radical ideology regarding fundamentalist Islam. These terrorist groups, apart from operating their training grounds, also double as national defense forces and secret service working closely with the government of Sudan. All of the terrorist groups in Sudan are said to be Islamic; and given al Qaeda's immense presence and prestige bestowed on it by the government in Sudan, it is likely that bin Laden's group is still operating there. Furthermore, by the late 1990s there were many different terrorist groups from several different countries operating in Sudan.

The Sudanese military regime has sponsored terrorism, committed heinous and widespread atrocities on their own people using religion as justification that at times included the use of weapons of mass destruction, and sought to attain stockpiles of heavy artillery, nuclear weapons and chemical and/or biological weapons. Terrorist groups within Sudan are guilty of the same, or related acts. Sudan and the terrorist groups they sponsor aim to harm the U.S. under the guise of jihad in the same manner in which they wage jihad against many of their own people.

Appeasement should not be used by the U.S. as a diplomatic tool in its policy toward Khartoum given that our government will always work to ensure that we operate with the utmost morality, the Sudanese government has proven that it is not trustworthy in its diplomatic endeavors, and that terrorists and their protectors, and perpetrators of genocidal atrocities and grave violations of international law must be deterred from instigating aggression and committing mass atrocities through the threat of the punishment they will suffer should they persist.

Sudan has recently begun to use ballistic missiles against civilians and other humanitarian sites in central and southern Sudan; it is also being investigated for using chemical or biological weapons in its bombing campaign. Allegations that the government of Sudan used Iraqi-manufactured mustard gas artillery shells and nerve agents against the Sudanese Peoples' Liberation Army (SPLA, the main opposition force) and civilian populations in southern Sudan, or that the government allowed Iraqis or Iranians to use weapons of mass destruction (WMD) on Sudanese in Sudan should be investigated with the utmost diligence and the perpetrators should be held accountable.

The government of Sudan reportedly has acquired large stockpiles of Iraqi mustard gas/blister agent in violation of its obligations under the Chemical Weapons Convention. Commander Taib Musba is alleged to have used WMD in southern Sudan and to be responsible for the commission of numerous and unspeakable war crimes perpetrated against prisoners of war (POWs) and scores of innocent Uduk Christian civilians in Ulu and Chali, Blue Nile/Upper Nile region in 1986-7, and in 1999 based on race, ethnicity, and religion.

As recently as 2000, Khartoum dropped over 167 bombs, doubling that of the previous year; and it is foreseeable that the number of bombs dropped on civilian sites throughout 2001 could have doubled that of 2000. Recent massacres such as those ordered by Commander Taib Musba, who presently remains a high ranking military official in the

Sudanese Government, against the Uduk and Jumjum Christians in Chali, Blue Nile, between 1986-1987, and from the late 1990s to the present; the alleged use of weapons of mass destruction under CDR Musba in Ulu, Blue Nile in April 1999, on captured Sudanese People's Liberation Army (SPLA) prisoners of war (POWs); mass killings of civilians by government troops in Guffa in April 2000, and in Northeastern Upper Nile and Southern Blue Nile in April-May 2001, should be investigated and prosecuted by an independent war crimes tribunal.

There are several government officials alleged to have been involved in numerous massacres that should be held accountable for crimes of genocide, crimes against humanity, and/or war crimes that should be investigated under the principle of command responsibility and held accountable before an ad hoc war crimes tribunal. Justice and accountability for genocide, related crimes against humanity, and other war crimes is absolutely essential to any diplomatic initiative aimed at halting atrocities in Sudan. The lack of accountability for these crimes serves as an incentive to Khartoum to continue to orchestrate state-commissioned violence against protected groups of the population in furtherance of a genocidal policy to destroy non-Muslims and non-Arabs. Before any substantial cessation of atrocities on behalf of Khartoum may be attained, substantial mechanisms of justice must be formed to effectively deter government-sponsored violence.

Similarly, prior to the recent war on terrorism, terrorist groups such as al Qaeda felt virtually no repercussion for their crimes, and few have been held accountable, previously amounting to a lack of any effective deterrent against the commission of the heinous attacks of September 11, 2001. Therefore, the shameful lack of impunity or related deterrent measures aimed at halting the commission of genocide in Sudan has led to an escalation of attacks in recent years. Any sustainable eradication of genocidal atrocities in Sudan committed by the government, or any sustainable eradication of state-sponsored terrorism in Sudan requires reliable and effective mechanisms that will establish a system of greater accountability and justice capable of independently judging perpetrators.

With two million dead and four million internally displaced in the world's longest running civil war, predictions that the war will further escalate with continued oil development, government rhetoric and broken promises in diplomatic efforts, and a sustained and prolonged history of sponsoring terrorism, an ad hoc tribunal would be an excellent step in the right direction.

"It is sometimes said that an unjust peace is better than a just war. This may have merit in the short term, when anything that ends the killing is welcome. Over the long term, however, an unjust peace is impossible to sustain, for injustice carries with it the seeds of the next rebellion.

This is precisely what happened with the Taliban. When they seized Kabul five years ago, many people accepted them because they brought a kind of

peace to a worn and weary people. But look at what they wrought.” --
Andrew Natsios, Director, USAID

Khartoum must be forced to provide unconditional guarantees that its unspeakable war crimes cease permanently, and that it will permit the United Nations to monitor and assess Sudanese weapons. Regardless, a United Nations war crimes tribunal should be formed to investigate and prosecute the architects of Sudan's unforgivable mass atrocities, bringing justice to the country's many victims and deterring future violence. Only after ceasing its persecution, allowing weapons inspections, and acceding to a war crimes tribunal should Sudan be treated as worthy of the prestige of partnership with the United States.