

XXVII

TECMUN Jr.

International Criminal
Court

Dear Judges:

...Are you living or are you existing?

Without knowing you, I can swear you wake up every morning asking yourself the same question unconsciously. Do you have dreams? Do you have goals? Do you question yourself about who you really are? What's your essence? Do you really aspire to be someone in your life? If the answer is yes, be proud of yourself, you're not just existing. You're actually living.

But, what will remain of you when your body transmutation takes place? Will it be looks, essences or nothing? I don't believe in coincidence, I strongly believe in the destiny. You're here for something. We're going to meet each other for a cosmic reason, you'll teach me, I'll teach you, we'll be one in the whole.

Closing my eyes, trying to connect without even looking at your face, I can say I'm proud of your braveness, of your courage, of being here, of you.

Raise your voice, let the people know you're here, let the people know you're not only existing. Let the people know you're leaving. You've only 24 hours per day to make something for your planet, for the humanity, for your family, friends, brothers and sisters, even for yourself. Fight, scream, always seek justice. You don't ask for permission to start a revolution.

I'm letting my heart, my tears, my effort and my soul in this few letters. Feel tempered, think wisely and act with strength, remember that blessed was the one who existed before he became.

Valeria Simón Favila

President of the International Criminal Court

XXVII TECMUN Jr.

Background of the International Criminal Court

The International Criminal Court (hereinafter referred to as ICC) is a permanent international judicial body to try individuals for genocide, crimes against humanity and war crimes. Created to substitute the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, the ICC was formed under an international treaty, the Rome Statute, established in 1998, voted and adopted by 120 states. The ICC may conduct all crimes presented to it under the Statute of Rome committed after the 1st of July, 2002, date when the Rome Statute entered into force after the ratification of the 60 states. Under the principle of complementarity in the Rome Statute is unable to proceed with the investigation. By fairly and impartially adjudicating the most serious international crimes and bringing justice to victims, the ICC contributes to the advancements of the rule of law and stable, peaceful societies.

Case A

The prosecution against Sylvestre Mudacamura for crimes against humanity and war crimes during the armed conflict in the province of Kivu, Democratic Republic of Congo

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Outline

Since 1994, the Republic of Congo suffers inter-ethnic conflicts throughout its territory, forcing the population to seek international aid. Such conflicts were being developed because of the different interests of the natural resources located in the country as well as the different ideologies of each ethnic group located in the country. The ethnic group called *Hutu* established themselves in Rwanda, Burundi, and the eastern Democratic Republic of Congo, where they formed one of the principal population divisions, alongside the *Tutsi* and the *Twa*. Several amounts of *Hutu* members form *Les Force Démocratiques de Libération du Rwanda* (FDLR), a rebel militia whose main purpose was to murder the non-*Hutu* population, referring to those civilians belonging to other ethnic groups, such as *Lendu*, *Tutsi* and *Nande* people. Meanwhile, the non-*Hutu* civilians were brutally murdered, the *Hutu* took power, with the help of their own militia, whose purposes have been to overthrow the government of Rwanda and the extermination of the *Tutsi* tribe, in order to make the *Hutu* nationalism stronger. In April 1994, Rwanda was the headquarter where a massacre was held. At least, 800,000 people belonging to the *Tutsi* tribe were deceased. This event caused an increase in power from *Hutu* extremist group in a territorial, ideological and quantity way.

The recent intern conflicts the country was facing, such as murders, the outburst of lands, ethnic groups confrontations, etcetera, forced *Tutsis* to make their own rebel group named *Rwandan Patriotic Front*, in order to defend themselves from the *Hutu*. *Hutu* extremists left the political and territorial power reached in Rwanda, and force *Hutu* civilians to emigrate to the Democratic Republic of Congo, as a way of preventing a confrontation between the two groups. The *Hutu* extremists infiltrated Rwanda, massacring civilians, by hauling *Tutsis* off buses and shooting them. These extremists also recruit young *Hutu* men into their ranks. In 2006, the FDLR planned infiltration of Rwanda to forcibly recruit school-age *Hutu* children as fighters and to lay the ground for a military assault by hiding weapons and scouting out targets for sabotage, but this operation wasn't successful since the government was able to dismantle it in time. The confrontation between *Hutus* and *Tutsis* continues nowadays, which has led Rwanda and Democratic Republic of Congo governments to join forces in order to combat the FDLR in the provinces of North and South Kivu.

Between 2009 and 2010, Sylvestre Mudacumura served as the supreme commander of the FDLR where he attended as co-perpetrator in conducting a campaign attacking civilian populations and filed charges of war crimes and crimes against humanity. Moreover, Madacumura is seemed to be involved in the Rwandan genocide. According to the Office of the Special Representative of the Secretary-General for the United Nations Question of Children and Armed Conflict, Madacumura is responsible for 27 cases of recruitment and use of children by troops under his command in North Kivu, from 2002 to 2007. Consequently, on July 13, 2012, the International Criminal Court (ICC) issued an arrest warrant to Sylvestre Madacumura. Nevertheless, Pre-Trial Chamber II determined that there were insufficient grounds to believe that Mudacumura was criminally responsible for crimes against humanity. For this reason, he has been under conditional freedom, however, on July 2015, the Human Rights Watch called on the Democratic Republic of the Congo's authorities and UN peacekeepers to intensify efforts in order to arrest Mudacumura and transfer him to ICC custody, in The Hague, given that FDLR fighters under Mudacumura's command have been responsible for eastern Congo's worst crimes. With him as a leader, FDLR fighters have been committing horrific attacks against a long-suffering population, and there has been no effort in order to arrest him.

Democratic Republic of Congo economic, social and political background

Democratic Republic of Congo's history has been characterized by a series of conflicts that broke out in the 1990s, creating an extended economic and social slump from which the country is still recovering; likewise, economic development in the DRC has been severely undermined by decades of instability and violence. Poor economic management has also been worsened by the constant political crises which have pressed *laissez-faire* and trapped more than 70% of the population in persistent poverty. Corruption has been present since independence in 1960, tied with the countrywide instability and intermittent conflict that began in the early-90s, which has reduced national output and government revenue and, at the same time, increased external debt. With the installation of a new government in 2003 after peace accords, economic conditions slowly began to improve as the government established relations with international financial institutions, such as the International Monetary Fund, as well as international donors despite that growth remains to be slow due to

political instability, bureaucratic inefficiency, and corruption; added to this, Joseph Kabila clings to power since 2001 while the country plunges into civil war again which has had its origin in Kivu; in the same way President Kabila has encouraged abuses against human rights and a high level of banditry between tribes in his effort to consolidate and maintain political power. More than 200 African ethnic groups are settled in DRC; among them the *Hutu* and Tutsi tribes which entered in the conflict in 1959 given that hundreds of Tutsis were killed at the time of the independence of Rwanda which caused that thousands of Tutsis searched refuge in neighboring countries. Since then, the Tutsis began to organize and prepare an attack against the *Hutus* and the government by killing numerous civilians and creating new waves of refugees.

Les Force Démocratiques de Libération du Rwanda (Hutus tribe)

The ethnic group called *Hutu*, also known as *Les Force Démocratiques de Libération du Rwanda* (FDLR), before know as *Armée de Libération du Rwanda* (ALIR), is one of the mayor arm group in the territory of the Democratic Republic of the Congo since September 2000. Once they established themselves in Rwanda, Burundi, and the eastern Democratic Republic of the Congo, where they formed one of the principal population divisions alongside the ethnic groups Tutsi and the TwaIt. *Les Force Démocratiques de Libération du Rwanda* started from two militia branches of the *Armée de Libération du Rwanda* (ALIR) which was composed from the remnants of Rwanda's defeated government that fled into the Democratic Republic of Congo after the 1990-1994 war between the *Forces Armées Rwandaises* (ex-FAR), the *Interahamwe* militia, and the victorious *Rwandan Patriotic Front* (RPF). The conformants of the FDLR were mainly part of the ethnic group *Hutu*, thus the original objective of the creation of this armed group was to overthrow the Rwandan government by force, ousting the RPF, returning ethnic *Hutu* political leaders to power and take control of the region. Likewise, murdering the non-*Hutu* population was part of their goals as a group, due to the fact they were looking at the empowerment of quality and quantity of the ethnic group. Its public purpose is to use military pressure to open "inter-Rwandan dialogue" with the current Rwandan government, nevertheless, their objective is focused on overthrowing the Rwandan government so they can achieve the economic, political and social power in the area.

Rwandan Patriotic Front (Tutsi tribe)

The *Tutsi*, also known as Watusi, Batusi or Tussi, are the second largest ethnic group, after the Hutu, in the Democratic Republic of Congo, Rwanda, and Burundi which had been ruled by a Tutsi-dominated monarchy after mid-16000; they have been in constant struggle for obtaining the DRC government's power over the last 30 years although in its attempt to obtain it the *Tutsi* militia has been involved in several armed conflicts in the area since the *Hutus* took power of the territory; given that the Tutsi armada was exiled to Uganda but returned in 1990, right on time to stop the 1994 genocide. After the Rwandan 1994 genocide where Hutu forces slaughtered Tutsis, the Rwandan Patriotic Front was in charge of stopping and taking down the military and civilian forces that were authors of the tragedy despite the mission being relatively pacific and simple the Tutsi forces killed several Hutu civilians when rescuing their refugees from the displacing camps that the attackers had created for them; their mission to persecute Hutus for the genocide didn't stop until the International Community started pressuring the leaders of the Tutsi government for it to have an end; crimes committed by the RPF are poorly documented and have a lot of variations in the stories of the witnesses. In the aftermath of this issue, the RPF decided to cover their ethnic bias by recruiting several Hutu leaders to later change their ideology, calling themselves a kin group and even going as far as creating songs for the African people to unite against the Europeans and the caucasian race as a whole. Allegedly, they forced Hutus and other ethnic Rwandan groups into their lines, to then kill or send them to assassinate genocidaires when the Democratic Republic of Congo decided to accept the RPF forces into their territory. According to Judi Reever, the applauded author of *In praise of blood, the crimes of the Rwandan Patriotic Front*, the RPF forces have become experts on disposing of Hutu civilians, leaving almost no evidence of their offenses.

Since then, an estimated of five million people have died as a result of the conflict which was started in 2003 besides of some armed groups that are still active nowadays in the areas near Rwanda's border and President Kabila's reluctance to tackle Hutu militias has led the country to a new civil war and involved another six countries, between them the Democratic Republic of Congo; also it has led to the creation of numerous new armed groups

fighting for control of the country; so the Rwandan Patriotic Front, backed up by Uganda's army, has started to gradually seize more territory waiting for another attack.

Armed conflict between Hutu and Tutsi

The conflict between *Tutsis* and *Hutus* started before the colonial era, the *Tutsis* occupied the highest stratum in the social system and the *Hutus* the lowest, causing conflicts related to resources each ethnic group controlled. After the First World War, Rwanda became part of Belgium and, with the decolonization of the 1950s, tensions increased and ethnic conflicts between *Hutus* and *Tutsis* began. The *Tutsi* retained their dominant position over the *Hutu* in Rwanda until 1961, when the monarchy was overthrown. A military campaign by *Tutsi* exiles to retake Rwanda, the Hutu-dominated government there instigated genocidal massacres of hundreds of thousands of *Tutsi* in a conquest attempt. *Tutsis* were defeated and sought refuge in neighboring countries. From there, the *Tutsis* began to organize and prepare an attack against the *Hutus* and the government, murdering numerous civilians and creating new waves of refugees, causing the beginning of Rwandan 1994 genocide.

The Rwandan genocide of 1994

In April 1994, Rwanda erupted into violence when one of the biggest atrocities that Rwanda have suffered turned out in 800,000 people brutally slaughtered in 100 days; about 85% of Rwandans are *Hutus* but the *Tutsi* minority has long dominated the country and in 1959, the *Hutus* overthrew the *Tutsi* monarchy and tens of thousands of *Tutsis* fled to neighboring countries, including Uganda. This massive genocide start when a group of *Tutsis* exiles formed a rebel group known as the Rwandan Patriotic Front (RPF), the one that invaded Rwanda in 1990 and fighting continued until a 1993 peace deal was agreed.

The alleged responsables of this massive genocide are members of the core Hutu political elite some of them had top positions in the national government. It's believed that this was planned for over a year. Even though the murder of Juvenal Habyarimana, Rwandan president was committed on April 6, 1994, this event provoked a power vacuum and ended with all the peace agreements between all the tribes. Genocidal actions began the next day, that was when the soldiers, police, and militia executed key *Tutsi* and moderate Hutu military

and political leaders. Countries like the U.S., Belgium, France and more completely ignore the brutal massacre.

Villages and towns were the scenery of the murder of a lot of people, such as churches and schools buildings, these crimes were often committed by neighbors and fellow villagers. The principal weapons in these murders were machetes and rifles. An estimated 500,000 to 1,000,000 Rwandans were killed, about 70% of the Tutsi population. Sexual violence was rife, with an estimated 250,000 to 500,000 women raped during the genocide. The genocide ended with the military victory of the Rwandan Patriotic Front. The RPF, now in power in Rwanda, embraced militias fighting both the Hutu militias and the Congolese army, which was aligned with the Hutus. The Rwanda-backed rebel groups eventually marched on DR Congo's capital, Kinshasa, and overthrew the government of Mobutu Sese Seko, installing Laurent Kabila as president.

Kivu's providence attack

The province of North Kivu has been the epicenter of war in the DRC. In 2002, the various warring parties in the DRC signed a peace agreement, prescribing a formal cessation of the hostilities that had consumed the country since 1998. Despite the fact that this agreement was successful in reuniting rival factions in a transitional government and producing credible elections in 2006, it did not bring an end to the violence. On difference to northern Katanga and Ituri where violence decrease. In October 1996, North Kivu was invaded by the Alliance des forces démocratiques pour la libération du Congo-Zaïre (AFDL, Alliance of Democratic Forces for the Liberation of Congo-Zaire).

In the east of the Democratic Republic of the Congo is found Kivu, where violence motivated not only by the ethnic conflict but by natural sources such as coltan, has reigned for more than two decades and left an inheritance in the two provinces of Kivu; a generation of thousands of child soldiers, minors enslaved in mines or victims of abuse, misery, and abuses. Kivu's importance started when in 1994, Rwandan *Hutus* arrived looking for refugee. Later, in 1997 when the *Tutsi* Paul Kagame arrived with his men at Kivu supporting Congolese rebel Laurent Kabila, around 200,000 - 300,000 *Hutu* refugees resulted as victims. After that, the Second Congolese War (1998-2003) started, having a main impact in this

region. Violence in Kivu has not stopped since then; nowadays people are moving to the southern frontier due to this, hoping they find a more stable place, not taking into consideration the risks that this action has. The United Nations Refugee Agency estimated that to 60,000 people fled in April as a result of fighting around Kamango near the town of Beni. In the same month, an estimated 50,000 people fled in neighboring Lubero Territory, where the Congolese Army was fighting Mai-Mai armed groups.

Child soldiering investigation by the Office of the Special Representative of the Secretary-General United Nations Question of Children and Armed

For more than two decades, violence has been a daily challenge for children in Kivu, Democratic Republic of Congo; a whole generation of thousands of children soldiers, minors enslaved or victims of abuse, misery, and rape among the atrocities that Eastern Congolese people have lived. As reported by Office of the UN Special Representative of the Secretary-General for Children and Armed Conflict there is an estimated of 300,000 child soldiers in the world which approximately 10 percent were from the DRC in 2003. In 2012 the DRC's government signed an Action Plan with the U.N. to stop the enlistment of child soldiers into any form of armed forces, and thanks to this agreement, the number of children soldiers has drastically decreased but there are still there are over 1,000 undocumented illegal enlistments children who has been recruited for the armed forces.

Quoting the last research of Xavier Aldekoa the Catalan journalist, specialized in African themes; the recruiting process is a gruesome one where children get kidnapped by the FDLR and trained in order to be handed guns as big as an AK-47 assault rifle; 60 percent of the children are between the ages of 8 to 16 years old whose the only aim is to transform into war machines. There is no gender distinction when it comes to being listed but unfortunately girls are the most victimized by assuming the role of wives, being constantly raped and used only for domestic or sexual purposes; Office of the Special Representative of the Secretary-General United Nations Question of Children and Armed is now helping out the female victims who represent one third part of all the children who have been listed nevertheless the trauma suffered by the children makes it hard for them to reintegrate to their communities either because of PTSD or because of communities' prejudice and even so organizations are still working on the reestablishment of the children's relationships within

their people, like so the Action Center for Youth and Vulnerable Children (CAJED) created by an ex-child soldier, Gilbert Munda.

Sylvestre Mudacumura as supreme commander of FDLR

Sylvestre Mudacumura was born in Gutumba sector, Gisenyi prefecture in Rwanda in 1954. Between 2009 and 2010, Sylvestre Mudacumura served as the supreme commander of the military wing of the rebel *Democratic Forces for the Liberation of Rwanda* (FDLR), where he attended as co-perpetrator in conducting a campaign attacking civilian populations and filed charges of war crimes and crimes against humanity. Moreover, Madacumura is seemed to be involved in the Rwandan genocide, due to the fact he was the deputy commander of the Presidential Guard of the Rwandan Armed Forces during the 1994 genocide. As well as the highest-ranking military commander of the “Forces Démocratiques pour la Libération du Rwanda” (FDLR).

According to the Office of the Special Representative of the Secretary-General for the United Nations Question of Children and Armed Conflict, Madacumura is responsible for 27 cases of recruitment and use of children by troops under his command in North Kivu, from 2002 to 2007. Consequently, on July 13, 2012, the International Criminal Court (ICC) issued an arrest warrant to Sylvestre Madacumura. Nevertheless, Pre-Trial Chamber II determined that there were insufficient grounds to believe that Mudacumura was criminally responsible for crimes against humanity. For this reason, he has been under conditional freedom, however, on July 2015, the Human Rights Watch called on the Democratic Republic of the Congo’s authorities and UN peacekeepers to intensify efforts in order to arrest Mudacumura and transfer him to ICC custody, in The Hague, given that FDLR fighters under Mudacumura’s command have been responsible for eastern Congo’s worst crimes.

Currently Accused

- Sylvestre Mudacumura

Charges Submitted

Sylvestre Mudacumura is accused of:

- War Crimes

- Displacement of the civilian population (article 8(2)(e)(viii))
- Destruction of the adversary's property (article 8(2)(e)(xii))
- Enlistment of children under the age of 15 years and their use to participate actively in hostilities (Article 8(2)(e)(vii))
- Intentional attack against the civilian population (article 8(2)(e)(i))
- Intentional attack against buildings dedicated to religion (article 8(2)(e)(iv))
- Torture and cruel treatment (article 8(2)(c)(i))
- Crimes against humanity
 - Deportation or forcible transfer of population (article 7(1)(d))
 - Imprisonment or other severe deprivation of physical liberty (article 7(1)(e))
 - Persecution (article 7(1)(h))
 - Torture (Article 7(1)(f))

References

1. Arieff, A. (2014). "Democratic Republic of Congo: Background and US Policy." Retrieved on June 31, 2019, from *Congressional Research Service*. Web. <<https://www.fas.org/sgp/crs/row/R43166.pdf>>
2. Central Intelligence Agency. (2019) Africa: Congo, Democratic Republic. Retrieved on June 17, 2019, from *Central Intelligence Agency*. Web. <<https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html>>
3. Child Soldiers International. (2019) *Democratic Republic of Congo*. Retrieved on June 25, 2019, from *Child Soldiers International*. Web. <<https://www.child-soldiers.org/democratic-republic-of-congo>>
4. Cordell D., Lemanchard R., Payanzo N. (2019) Democratic Republic of the Congo. Retrieved on June 17, 2019, from *Encyclopedia Britannica*. Web <<https://www.britannica.com/place/Democratic-Republic-of-the-Congo/Mobutus-regime#ref242734>>
5. Human Rights Watch. (2017) The Rwandan Patriotic Front. Retrieved on June 25, 2019, from *Human Rights Watch*. Web. <<https://www.hrw.org/reports/1999/rwanda/Geno15-8-03.htm>>
6. Moloo, Z. (2019). The crimes of the Rwandan Patriotic Front. Retrieved on June the 25th, 2019, from *Africa's Country*. Web. <<https://africasacountry.com/2019/04/the-crimes-of-the-rwandan-patriotic-front>>
7. National Underground Railroad Freedom Center. (2014). Gilbert Munda. Retrieved on June the 25th, 2019, from *Heroes*. Web. <<http://www.tipheroes.org/gilbert-munda/>>
8. The Borgen Project. (2018). Top 10 facts about child soldiers in the Democratic Republic of Congo. Retrieved on 25th June, from *Borgen Project*. Web. <<https://borgenproject.org/top-10-facts-about-child-soldiers-in-the-democratic-republic-of-the-congo/>>

9. The Heritage Foundation. (2019) Democratic Republic of Congo. Retrieved 17th June, 2019 from *The Heritage Foundation*. Web <<https://www.heritage.org/index/country/democraticrepubliccongo>>
10. TSA. (2012). Factsheet on the Democratic Forces for the Liberation of Rwanda. Retrieved 15th June, 2019 from *Think Security Africa*. Web. <<http://thinksecurityafrica.org/wordpress/wp-content/uploads/FDLR.pdf>>
11. The World Bank. (2017) Democratic Republic of Congo Overview. Retrieved 17th June, 2019 from *The World Bank*. Web. <<https://www.worldbank.org/en/country/drc/overview>>
12. UN Security Council. (n.d.) Sylvestre Mudacumura. Retrieved on June 10, 2019, from *Consejo de Seguridad de la ONU*. Web. <<https://www.un.org/securitycouncil/es/sanctions/1533/materials/summaries/individual/sylvestre-mudacumura>>
13. BBC News. (2019). Rwandan Genocide: 100 days of slaughter. Retrieved on 28th June 28, 2019, from *BBC News*. Web. <<https://www.bbc.com/news/world-africa-26875506>>
14. Anonymous. (2016). Sylvestre Mudacamura. Retrieved on June 28, 2019, from *Trial International*. Web. <<https://trialinternational.org/latest-post/sylvestre-mudacumura/>>

Glossary

A

Aid: Help in the form of food, money, medical supplies, or weapons that is given by a richer country to a poorer one.

B

Banditry: Used to refer to acts of robbery and violence in areas where the rule of law has broken down.

Bureaucratic: Relating to the business of running an organization, or government.

Bias: Prejudice in favour or against one thing, person or group compared with another, usually in a way considered unfair.

C

Cessation: The fact or process of ending or being brought to an end.

Coltan: a dull black ore that consists of a mixture of columbite and tantalite and is a minor source of tantalum.

E

Exile: The state or a period of forced absence from one's country or home.

Extremist: A. person who holds extreme or fanatical political or religious views, especially one who resorts to or advocates extreme action.

Enlistment: The action of enrolling or being enrolled in the armed services.

Enslaved: to control someone's actions, thoughts, emotions, or life completely

G

Genocide: The deliberate and systematic destruction of a group of people because of their ethnicity, nationality, religion, or race.

Gruesome: extremely unpleasant and shocking, and usually dealing with death or injury.

I

Inheritance: the acquisition of a possession, condition, or trait from past generations.

K

Kin group: A group of people related by blood or marriage, they can also share a social relationship.

L

Laissez-faire: French expression meaning “let (them) do” or “let (them) pass”, a doctrine opposing governmental interference in economic affairs beyond the minimum necessary for the maintenance of peace.

M

Massacre: A murdering, typically of multiple victims, considered morally unacceptable, especially when perpetrated by a group of political actors against defenseless victims.

O

Overthrow: A removal from power; a defeat or downfall.

P

Plunge: Jump or dive quickly and energetically.

S

Seize: Take hold of something suddenly and forcibly.

Stratum: is a group of people in it who are similar in their education, income, or social status

Slump: a sudden fall in prices, amount, or value, or a period of time when something is in a bad state.

Case B

The prosecution against Ahmad Muhammad Harun for war crimes and crimes against humanity in Darfur, Sudan

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Outline

On February, 2003, a group of rebels known as the Sudanese Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), attacked Khartoum, a strategic town located in Darfur, Sudan. Both organizations took up arms against the Sudanese Government claiming years of political, economic and social marginalization. In response, the Administration of Sudan launched a counter-insurgency campaign, arming Arab Janjaweed militias alongside its forces to crush the rebellion. An armed conflict took place allegedly between the Government of Sudan, including combatants from the Sudan People's Armed Forces (the Sudanese Armed Forces) and the Popular Defence Force (PDF), along with the Janjaweed militia, against organised rebel groups, including the Sudanese Liberation Movement/Army and the Justice and Equality Movement in Darfur, Sudan. It is purported that the Sudanese Armed Forces and the Janjaweed militia, acting together as part of the counter-insurgency campaign, carried out several attacks of a systematic or widespread nature, in the towns of *Kodoom*, *Brindisi*, *Mukjar*, *Arawala*, and surrounding areas, between 2003 and 2004. Violence and broken ceasefires continued throughout 2004 and 2005, despite peace talks and the presence of an African Union (AU) protection force. On July 31, 2007, The United Nations' Security Council (UNSC), considering the insurgency's threat, launched a joint United Nations (UN)-AU peacekeeping mission (UNAMID) to replace the previous mission. UNAMID troop deployment did not begin until 2008.

The situation was referred to the International Criminal Court on March 31, 2005, by the UNSC, and, in June of 2005, the investigation against Ahmad Muhammad Harun (Ahmad Harun) was opened. There are reasonable grounds to open a further inquiry into war crimes and crimes against humanity, which lie within the ICC's jurisdiction, committed in Darfur, Sudan. Ahmad Harun served, from 2003 to 2005, as Minister of the State for the Interior of the Government of Sudan and was allegedly in charge of the management of the Darfur Security Desk, thereby coordinating the different bodies of the government involved in the counter-insurgency, including the Police, the Armed Forces, the National Security and Intelligence Service and the Janjaweed militia. Criminal acts were allegedly committed, in several towns, against civilians, primarily from the *Fur*, *Zaghawa* and *Masalit* populations, such as murders of civilians, sexual violations and outrages upon the personal dignity of

women and girls, persecution, forcible transfers, imprisonment or severe deprivation of liberty, and attacks intentionally directed against the above-mentioned populations. Ahmad Harun, by virtue of his position, had knowledge of the crimes committed against the civilian population and of the methods used by the Janjaweed militia. It is supposed that, in his public speeches, Ahmad Harun not only demonstrated that he knew that the Janjaweed militia was attacking civilians and pillaging towns and villages, but also personally encouraged the commission of such illegal acts; and that, due to his position at the Darfur Security Desk and through his overall coordination and personal participation in key activities of the Security Committees, namely the recruiting, arming and funding of the Janjaweed militia in Darfur, Ahmad Harun intentionally contributed to the commission of those crimes. On April 27, 2007, Pre-Trial Chamber I issued a warrant of arrest, against Ahmad Harun, still at large.

Sudanese social, political, and economic background

In 1989, the first Sudanese *coup d'état* took place, given the political and military imbalance present in the nation. This event gave rise to Omar Hassan Ahmad al-Bashir as President of Sudan, in 1993. His presidency has been distinguished by its inflexibility towards democracy since in 1999, when he dissolved the Parliament, so that he could continue in power for an undefined period. Despite his efforts, in 2018 Sudanese civilians began to take the streets demanding al-Bashir to abandon his charge as president. This popular pressures led to political demands and, on April 11th, 2019, President Omar Hassan al-Bashir resigned, and the temporary government of the Military Council took over the administration.

In 2003, a group of rebels launched an insurrection to protest what they contended was the Sudanese government's disregard for the western region, starting then the Darfur's conflict. As a result, the government supported Arab militias to fight against the rebels in Darfur. However, these groups have terrorized the civilians in the region and prevented international aid organizations from delivering much-needed food and medical supplies, as well as illegally displacing, and even murdering individuals with the government's backup. According to the UN, in 2007, the conflict, and the resulting humanitarian crisis, had left three hundred thousand people dead and more than two million displaced.

From 1983 to 2005, the Second Sudanese Civil War took place. It was a conflict between the Central Sudanese government and the Sudan People's Liberation Army, which was originated in South Sudan, as a consequence of the dispute over natural resources. North Sudan wanted to control important oil fields situated in the edge of the Sahara Desert, given that oil revenues make up about 70% of Sudan's export earnings, and contributes to the development of the country that, unlike the South, didn't depend on international aid. This resulted in the independence of South Sudan, in 2011, under the presidency of Salva Kiir Mayardit who, in the same way, wanted to cut off all types of relations with the now ex-president al-Bashir, due to his charges for war crimes.

Omar Al-Bashir's government

Omar al-Bashir was born on January 7, 1944, in Hosh Wad Banaqa, Sudan. He has served as president of Sudan for three decades. His political and military career started in the mid-1980s, when he took the leading role in the Sudanese army's campaign against the rebels of the southern Sudan People's Liberation Army (SPLA). He became chairman of the Revolutionary Command Council for National Salvation, which ruled the country just after he successfully led a coup, in 1989. Bashir dissolved the Parliament, banned political parties, and strictly controlled the press. He was supported by the National Islamic Front (NIF), making his leadership even more powerful. Together, the NIF and Bashir began to Islamize the country, introducing the *Sharī'ah* in March, 1991. This movement, further emphasized the division between the North and the South. In October, 1993, the Revolutionary Command Council was disbanded, due to internal conflicts, and Omar Al-Bashir was appointed the official president of Sudan, in 1996, by an election. On June 30, 1998, Bashir signed a new constitution, which lifted the ban on political parties. When he seized power, Sudan was in the midst of a 21-year civil armed conflict between the North and the South.

Throughout the years, the belic conflict with the SPLA continued, displacing millions of southerners all around the country. From time to time, Bashir made tentative ceasefire agreements with fringe elements of the rebel force, but when oil production started on a large scale, the dispute grew fiercer. Under international pressure, Omar Al-Bashir agreed, in 2005, to form a peace pact with the Sudan People's Liberation Army. Meanwhile, in August 2003, rebel African groups in Darfur had launched an attack to Bashir's government, claiming

unfair, disrespectful, violent and corrupt treatment towards them. Nonetheless, to combat the Darfur uprising, Omar Al-Bashir enlisted the Janjaweed Arab militia, whose brutal methods, as torture and willful murders; terrorized the rebels who were protesting, as well as the civilians in the region, forcing more than two million citizens to run away from Darfur. As the conflict raged on, Bashir reluctantly accepted the arrival of a very small peacekeeping force from the African Union, but resisted attempts by the United Nations to send a much larger international group. The African Union peacekeeping mission was eventually replaced by a joint UN-AU mission.

Sudanese Liberation Movement/Army and the Justice and Equality Movement

The SLM/A was established in 2001, by an alliance of *Fur* and *Zaghawa* peoples, both from Darfur, in western Sudan. This ethnic alliance has been rising since the 1980s, due to the droughts and famine in the region. The *Furs* dominate the area containing around 60% of the total population, they are a sedentary agriculture-based tribe. Meanwhile, the *Zaghawa* are a mostly nomadic tribe, whose incomes come from the herding of cattle, camels, and sheep. The Justice and Equality Movement was formed around 1993, nevertheless, it was concretely set up in 2001, by Dr. Khalil Ibrahim. Both movements based their principles in *The Black Book*, an underground publication from the year 2000. This book contains all the mistreatments suffered by the ethnic minorities previously mentioned. Among its lines, charts are pointing out the misrepresentation of the government, the misuse of natural resources and the marginalization of Darfur and other secluded regions, as it points out that Sudan is a centralized country.

All the points made in *The Black Book* resulted in the creation of these two rebel groups and in the propagation of the concept of anarchism throughout Darfur. By 2003, a big portion of the region had adopted it as the new political ideology to adapt themselves to. After the take of the general rebel military base in February, 2003, the SLM/A and the JEM agreed to a ceasefire and enter peace discussions in April, 2004. But tensions began to arise in the SLM/A, as the *Zaghawa* tribe wanted to fight the Janjaweed and the *Fur* tribe wanted to fight the government as a whole. This led the movement to fragment into different factions, and only one of them signing the peace treaty in 2006. In spite of the existence of this agreement, the other factions in the SLM/A and the JEM kept the rebellion alive.

Village attacks between 2003 and 2004

From April 2003 to March 2004, just two months after the attack to a military base by the rebel forces of Darfur, there were between 2,800 and 3,862 attacks on villages in Darfur. 97% of the assaults were committed by the Janjaweed and only 3% by the SLM/A and the JEM. This situation forced the villagers to organize themselves into several defense groups. The percentages of reported attacks and the number of casualties prove that the attacks aimed to do more than just contain the rebels, turning these aggressions into war crimes. There is no precise recompilation of the catastrophe from the attacks, but there were always a few survivors left. There was a peak in the number of homicides, around February and March, 2004, according to the data analysis made by the UN. After the peace treaties were signed a month later, the intervention against civilians saw a drop. Nonetheless, the attacks continued on a minor scale during the remaining months of 2004 and until 2005. There was no reported incidents after February, 2005, until September, 2005, when the conflict was in a resolution stage. In 2006, data analysis by Andreas Höfer Petersen and Lise-Lotte Tullin, researchers from the Bloodhound center, estimated around 96,000 to 128,000 direct deaths and 1,965,858 displaced refugees.

'Arab' Janjaweed militias

The Janjaweed militia is an Arab armed group active in Darfur, Sudan and eastern Chad; which, since 2005, has been terrorizing, displacing, and torturing civilians. The Janjaweed militia was created due to the civil war in Chad and was supported by Libya. During this time, Sudan supported the Arabic forces, leading them to act against Chadian incursions. Even though the conflict has ended, a new struggle allowed its continuing: the Civil War in Chad. The militia raided villages, but was mainly focused on conflicts between farmers and pastoralists. The government supported the Janjaweed, by supplying munitions to fight the rebel Sudanese People's Liberation Army and ignoring the banditry acts they were committing.

Starting in 2002, a protest was carried out from the Arab-dominated Sudanese administration, by attacking the government installations. Later on, The Justice and Equality Movement, together with the Sudan Liberation Army, created disturbs at Al-Fāshir's airbase

in April, 2003. In response, the Arab militias were organized as counterattack supported by the Sudanese government. Results were deaths, violations, mutilations, and kidnapping. The Janjaweed burned, posited and seized in their zones of attack among 2003 and 2008.

The protests in Sudan 2019

Since Omar Al-Bashir was appointed the president of Sudan in 1993, the country's population has expressed its disapproval towards the economic mismanagement, which includes rising costs of basic goods, currency devaluation, high inflation, totalitarianism, political repression, corruption, and human rights abuses. As a result, protests quickly turned from demands for urgent economic reforms into demands for President Omar al-Bashir to step down. On December 19, 2018, a series of demonstrations broke out in several Sudanese cities, due, in part, to rising costs of living and the economic deterioration conditions at all levels of society. Instead of accepting those protests as part of a human right, the government reacted with violence making al-Bashir declare a state of emergency and dissolve the national and regional governments, replacing them with military and intelligence-service officers. On April 10, soldiers were seen shielding protesters from security forces, and, on April 11, the military removed al-Bashir from power in a *coup d'état*.

Following al-Bashir's removal from power, street protests, organized by democratic opposition groups, continued, calling on the ruling Transitional Military Council (TMC) to step aside in favor of a civilian-led transitional government, and urging other reforms in Sudan. Negotiations between the TMC and the civilian opposition to form a joint transition government took place during late April and May, but stopped when the Rapid Support Forces and other TMC security forces took the lives of 128 people, sexually assaulted 70 and injured others in the Khartoum massacre on June 3. From June 9 to 11, opposition groups responded to the massacre by carrying out a calling for sustained civil disobedience and nonviolent resistance until the TMC transfers power to a civilian government. On June 12, the opposition agreed to stop the strike and the TMC conceded to free political prisoners, as well as renewing the negotiations to form a civilian government. On July 17, 2019, the military council and the civilian protesters signed a power-sharing deal aimed at ending the protests.

The conflict between Sudanese Armed Forces and the Janjaweed militia

The Sudanese Armed Forces (SAF) is the main military aid from the Sudanese government, since 2003. Up to date, there are 20,000 members stationed in the area, making it one of the biggest armed militias all over the country. It is the result of the African Union/United Nations (UNAMID) peacekeeping project to protect civilians. UNAMID counts with a total force strength of 105,000 men in the army, 500 in the navy, 3,000 in the air force and 17,500 in paramilitary (doctors, surgeons, etc.). The SAF is mainly powered by China and Russia, being armed with weapons as big as Mi-24 attack helicopters and armored transports like the Mi-17 transport helicopters. The SAF uses oil money as well, produced primarily in East Sudan, to get the latest military hardware.

Its former leader was Omar Hassan al-Bashir. When the rebel uprising in Darfur unleashed, the tensions in Sudan were high, and the SAF had displayed its forces all around the country. As the conflict escalated, the president was obligated to send troops to the front, organizing them in strategic cities, who later would deploy battalions into smaller towns. In the beginning, the Janjaweed militia was supported by the Sudanese government and the SFA was mandated to work in alliance with them. According to the Human Security Baseline Assessment for Sudan and South Sudan (HSBA), the Janjaweed were al-Bashir's preferred force, as the national army was, in his opinion, incompetent and/or less brutal. SFA's troops presented reports and complaints of the misbehaving and brutality from the Janjawees, despite them acting under the direct order of Omar al-Bashir.

Human Rights violations of Sudanese civilians

More than 2.5 million people had suffered the consequences of this conflict. Sexual violence is used in belic conflicts as a tool to embarrass and debilitate the communities. According to the report made by the United Nations about all the war crimes in the region of Sudan these crimes have only caused more violence against women and girls. The UN statement describes how in Kutum, in March 2004, 150 Janjaweed soldiers and guerrillas kidnapped and violated 16 girls. Since 2003, and until the end of 2007, it is estimated that 4 million people have been affected by the conflict. The number of deaths due to hunger, disease, and violence amounts to more than 200,000 in Darfur; and almost 2.5 million people live in camps for displaced

persons and refugees, with few possibilities to return to their homes with minimum security conditions. Support from the international community assures that even when people are obliged to abandon their home and placed inside those camps, Arab militias still patrol the surrounding areas and execute or sexually assault those who venture in search of water or firewood. At the beginning of 2007, the total number of refugees registered by the United Nations High Commissioner for Refugees (UNHCR), from all of Sudan, was around 686,000, of which 287,000 are located in Chad, most of them come from Darfur. But during the year, data of very different nature were registered with respect to population movements in Darfur.

Armed groups of the Janjaweed militia have forced communities in Sudan to leave their villages and flee to urban areas or camps. According to a report from the UNHCR most of the refugees are women and children, many of whom have crossed the border alone. They often arrive weak and malnourished. When the rainy season comes, their needs are aggravated by floods, food shortages, and diseases. Within South Sudan, almost two million people are internally displaced, while there are already two million South Sudanese refugees in countries like Ethiopia, Sudan, and Uganda. Many of them fear an imminent attack or have to fight with food insecurity.

During 2007, the United Nations recognized that although the influx of refugees decreased and more than 350,000 internally displaced persons and refugees returned to their places of origin, the number estimated of the Sudanese who left the country exceeded 12,000 and that more than 250,000 had been displaced for the first time. Also, the United Nations continues to denounce arbitrary arrests of civilians, mainly students and Sudanese humanitarian activists, who are subjected to torture and abuse, and they are denied assistance or any other legal guarantee. In Darfur, there are over 12,500 aid workers, but only a few thousand soldiers poorly armed and with great limitations in their mandate. The United Nations Children's Fund (UNICEF) provides primary health assistance to 3.7 million people in Darfur, access to education for 50,000 children or construction of basic infrastructure and services for more than 900,000. Nonetheless, the actual conflict is not coming to an end, and the humanitarian crisis in Sudan continues.

Ahmad Muhammad Harun as head of the "Darfur Security desk" in early 2003.

When Omar Al Bashir dissolved the Parliament, banned political parties, and controlled the press, his political and economic power increased, giving as a result the use of the Sudanese Intelligence and Security Service (NISS), which controlled the Sudan's Media Center (SMC) with the aim to further manipulate local and international public opinion towards Darfur. Furthermore, this plan included the dismissal of staff as opposed to crimes and the employment of key personnel to implement those crimes. Ahmad Harun, as the head of the Darfur Security Desk (DSD) and the National Security Council (NSC) between 2003 and 2005, presided over the implementation of attacks against the target groups in villages through the local Security Committees. As Minister of State for the Interior, Ahmad Harun recruited and mobilized the Janjaweed militia, relying on the experience he had gained in mobilizing tribal militias in South Sudan in the early 1990s. On various occasions, Ahmad Harun publicly acknowledged that his mission was to destroy those rebel groups, stating that al-Bashir had given him the power to take the life of whomever actively participated in protests. In April 27th, 2019 Omar al-Bashir announced that he would never hand over Ahmad Harun to the International Criminal Court jurisdiction, and that he would continue working under his protection.

Currently Accused

- Ahmad Muhammad Harun

Charges Submitted

Ahmad Mohammed is accused of:

Crimes against humanity

- Murder (article 7(1)(a))
- Persecution (article 7(1)(h))
- Forcible transfer of population (article 7(1)(d))
- Rape (article 7(1)(g))

- Inhumane acts (article 7(1)(k))
- Imprisonment or severe deprivation of liberty (article 7(1)(e))
- Torture (article 7(1)(f))

War crimes

- Murder (article 8(2)(c)(i))
- Attacks against the civilian population (article 8(2)(e)(i))
- Destruction of property (article 8(2)(e)(xii))
- Rape (article 8(2)(e)(vi))
- Pillaging (article 8(2)(e)(v))
- Outrage upon personal dignity (article 8(2)(c)(ii))

References

1. Abdullahi Osman El-Tom. (2000). The Black Book: Imbalance of Power and Wealth in Sudan. Retrieved on July 8th, 2019 from PDF. Web. <http://www.sudanjem.com/sudan-alt/english/books/blackbook_part1/book_part1.asp.htm>
2. Angeles M. (2008). EL CONFLICTO DE DARFUR: UN RETO PARA LA CREDIBILIDAD DE LA UNIÓN AFRICANA. Retrieved on May 14th, 2019 from PDF. Web. <<https://www.ucm.es/data/cont/media/www/pag-72513/UNISCI%20DP%2016%20-%20Alaminos.pdf>>
3. BBC News. (2019). Omar al-Bashir: Sudan's ousted president. Retrieved on July 7th, 2019 from BBC News. Web. <<https://www.bbc.com/news/world-africa-16010445>>
4. Burke, J. (2019). Sudanese protesters demand justice following mass killings. Retrieved on June 12th, 2019 from The Guardian. Web. <<https://www.theguardian.com/world/2019/jul/13/sudanese-protesters-demand-justice-after-mass-killings>>
5. Collins, Al-Shahi, Sikainga and others. (2019) Sudán. Retrieved on July 8th, 2019 from Britannica. Web. <<https://www.britannica.com/place/Sudan>>
6. Elbagir, N. (2019). Sudan's President Bashir forced out in military coup. Retrieved on July 7th, 2019 from CNN Business. Web. <<https://edition.cnn.com/2019/04/11/africa/sudan-unrest-intl/index.html>>
7. Farrow, M. (2019). Darfur Genocide. Retrieved on July 24th, 2019 from Jewish Word Watch. Web. <<https://www.jww.org/conflict-areas/sudan/darfur/>>
8. El Nuevo Día. (2019). Las claves para entender la situación de Sudán. Retrieved on July 8th, 2019 from El Nuevo Día. Web. <<https://www.elnuevodia.com/noticias/mundo/nota/lasclavesparaentenderlasituaciondesudan-2500340/>>
9. Joshua Project. (2010). Zaghawa in Sudan. Retrieved on July 8th, 2019 from The Joshua Project. Web. <https://joshuaproject.net/people_groups/16080/SU>

- 10.** Naranjo, J. (2019). Omar Al Bashir. Retrieved on July 24th, 2019 from EL PAÍS. Web. <https://elpais.com/tag/omar_hassan_ahmad_al_bashir/a>
- 11.** Petersen, A.H. & Tullin, L. (2006). The Scorched Earth of Darfur: Patterns in death and destruction reported by the people of Darfur. January 2001- September 2005. Retrieved on July 9th, 2019 from Bloodhound. PDF. <http://www.bloodhound.se/06_04_26_DARFUR_report.pdf>
- 12.** Ray M. Janjaweed. Retrieved on July 10th, 2019 from Enciclopedia Británica. Web. <<https://www.britannica.com/topic/Janjaweed>>
- 13.** Reuters. (2008). TIMELINE: Conflict in Sudan's Darfur. Retrieved on July 8th, 2019 from Reuters. Web. <<https://www.reuters.com/article/us-warcrimes-sudan-darfur-crisis/timeline-conflict-in-sudans-darfur-idUSL1455474520080714>>
- 14.** Unicef. (2005). Una herencia violenta en Darfur. Retrieved on July 15th, 2019 from UN. Web <https://www.unicef.org/spanish/infobycountry/sudan_25107.html>
- 15.** Naranjo, J. (2019). Omar Al Bashir. Retrieved on July 24th, 2019 from *EL PAÍS*. Web. <https://elpais.com/tag/omar_hassan_ahmad_al_bashir/a>

Glossary

A

Allegedly: Used to convey that something is claimed to be the case or have taken place, although there is no proof.

B

Battalion: A military unit consisting of three or more companies.

C

Ceasefire: A temporary suspension of fighting, typically one during which peace talks take place; a truce.

Chairman: A person, especially a man, designated to preside over a meeting.

Counterinsurgency: Military or political action taken against the activities of guerrillas or revolutionaries.

D

Deployment: The movement of troops or equipment to a place or position for military action.

Deprivation: The lack or denial of something considered to be a necessity.

Disband: Break up or cause to break up and stop functioning of an organized group.

Displace: To force something or someone out of its usual or original position.

H

(mis)Harness: To collect and control something so that it can be effectively used.

I

Influx: The arrival of a large number of people or things.

M

Marginalization: Treatment of a person, group, or concept as insignificant or peripheral.

Malnourished: Weak and in bad health because of having too little food or too little of the types of food necessary for good health.

R

Rely: To need a particular thing or the help and support of someone or something in order to continue, to work correctly, or to succeed.