

# THE INTERNATIONAL CITIZENS' TRIBUNAL FOR SUDAN

At the United Nation Church Centre, New York, November 13, 2006

## Concurring Opinion of Judge Obang O. Metho

Honorable Members of this International Citizens' Tribunal:

We are gathered here today at the International Citizens' Tribunal for Sudan to bring the defendant, President Omar al-Bashir of the Sudan, to justice. He is indicted on eleven separate charges brought by the prosecution team.

Who is this man--President Omar al-Bashir of the Sudan? The defendant represents the brutal regime that has been accused of committing genocide, crimes against humanity and violations of the laws and customs of war. President Bashir is the supreme commander of the military forces of Sudan that has been waging war against the darker-skinned Africans from the Darfur region of western Sudan, but Darfur is not the first place he has committed crimes against humanity.

He has been accused of being responsible for the genocide of over two million southern Sudanese and the enslavement, torture and rape of many more. As a result, over four million southern Sudanese have been internally displaced or were forced to flee the country, many remaining in refugee camps today. Although some semblance of peace has come to southern Sudan, for the last two or more years, the people of Darfur have become the targets, leading to the killing of approximately 400,000 people, causing two to three million to flee the country for refuge.

I heard of Omar Bashir when I was a young man and even from the beginning, what I heard about him was not good. He came into power in 1989 by coup as he wanted to sabotage the government's plan of signing a peace agreement to stop the brutal war between the Christian south and the Muslim north. After overthrowing the government, he has enforced *sharia* law and attempted *arabization* of the Christian Africans who were pressured to become Muslim. As a result of resistance over two million southern Sudanese black African Christians were killed.

The ethnic group I come from, the Anuak, was one of his targets. He also killed our brothers and sisters in other tribes such as the Dinka, the Nubians, the Acholli, the Shilluk and the Nuer. The Nuer especially were pushed from their oil rich land as northern Sudanese bombed their villages to force the people to leave their homes and land--just like what is happening in Darfur. Now, he is using profits from those oil resources from the Nuer land and other Africans land, also rich with oil, to fight a war against those living in the western Sudanese region of Darfur. One might ask why Darfur now?

It is no coincidence that the land of Darfur is very fertile, rich with natural resources and holds vast potential oil reserves. Take oil alone. Oil means money, power and influence in a world increasingly dependent on it. Oil, greed and racism have been the catalysts for genocide. Greed fuels these crimes, but racism provides the justification for such evil. Just like Hitler dehumanized the Jews, the same attitudes preceded the atrocities in Armenia, Cambodia, Rwanda and now in the Sudan. Omar al-Bashir and his government is at war with black Africa for the resources of their homeland in Darfur. Evidence heard today points to the Arab-African government of Bashir, subjugating the value of black Africa to a position of being less than human, a deeply-seeded attitude of some Arab-Africans who call the darker-skinned Sudanese, *abeed*, or essentially, slaves.

This kind of attitude established the climate under which horrific crimes against humanity could be committed and tolerated. Religious intolerance further incites the crimes, providing further justification for robbing the poor of their lives, homes and resources. The civil war in Sudan between the Muslim North against the Christian South may be described as a religious conflict, but how much of even that was a mask for outright desire to take over the oil reserves?

Likewise, now the Muslims from Khartoum are attacking their fellow Muslims in Darfur, calling them "lax Muslims" inferring that they are not entitled to the same benefits as those in the north. However, again, from the testimony today, we have seen how "oil-fever", fueled with racism, creates the conditions for the emergence of a Sudanese version of the Klu Klux Klan ( KKK) that is extremely dangerous and threatening to the entire continent that is made up of mostly black Africans.

The world has not done anything despite this evil. Ignorance is no excuse anymore. The reports are well-documented. We know what is happening. Yet, the world has failed to stop this regime from killing and displacing people first in southern Sudan and now in Darfur. We are dealing with the same person.

I got involved in human rights work because of experiences personal to me that occurred when I was a child growing up in Pochalla, in southeastern Sudan and Gambella in southwestern Ethiopia. What I mean is, I grew up knowing injustice as I lived with it all around me. I grew up knowing I would do whatever I could to stop it and at a young age, determined not to be silent.

The British had divided our Anuak ancestral land in two, causing half to be under the brutal government of Sudan and the other half to be under the equally brutal regime of Ethiopia. Both governments exploited the Anuak, forcing them to fight in their military, but never valuing them as a people. As the government oppressed the Anuak on one side of the border, the Anuak would run for refuge to the other side and vice versa.

This injustice became very real to me again three years ago. On December 13, 2003 four hundred and twenty four Anuak civilians were massacred as part of a plan under the current Ethiopian government of Prime Minister Meles Zenawi. I knew most of the victims. Reports indicate that about fifteen hundred more Anuak were killed in the rural areas. Four to five thousand Ethiopian Anuak refugees are still in Sudan.

This took place three years ago and since then the killing has continued. Until today, no one has been found accountable and brought before a court of law. Major human rights organizations such as Human Rights Watch, have written excellent reports documenting crimes against humanity, but since then, no one has done anything. I testified before the United Nations High Commission for Human Rights in April 2004, but no actions were taken.

The Anuak set up a small human rights organization, the Anuak Justice Council, to protect the rights of the Anuak. Today, the international leaders, the African Union and the United Nations have all been educated and alerted and the Anuak are waiting for them to do something, but nothing is happening.

Now, other Ethiopians have joined a pro-democracy movement as reports have emerged about the terrorization and rampant human rights abuses being perpetrated against the whole Ethiopian people by the current Ethiopian government of Prime Minister Meles Zenawi.

The entire leadership of the opposition party has been imprisoned by the ruling party for a year, along with many thousands of human rights activists, journalists, and civic organization leaders along with other political prisoners. Regardless of this outrage against democracy, the countries founded on democratic principles, the United States of America, UK, European Union and the United Nations, again, have not done anything.

When I was invited to participate in this tribunal, I decided to come to be with people who are doing something about the tragedy facing those in Darfur. Today's tribunal is an attempt to correct the overwhelming apathy towards the cries of the oppressed. I wanted to be part of such a group. I wanted to examine the evidence from a legal standpoint.

As the evidence indicates, President Omar al-Bashir may not have shot the bullet that killed an innocent civilian from Darfur, but instead he can be linked to holding responsibility for the planning, training, arming, financing and overall implementation of murder, rape, torture, castration, burning of homes and property and displacement of millions of people.

He was the Commander in Chief to the operations. He created the military monster necessary to force the people off the oil-rich land. Once the people were dehumanized, they could be treated like animals. Any means--murder, terrorization, exile or death by manufacturing a humanitarian crisis that was considered one of the worst in the world, could be used to gain access to the oil wealth. It is all of this that points to Omar al-Bashir's guilt.

Bashir had the power to create it and the power to stop it. Instead, even today, the terrorization continues. He could pull out his troops. He could stop and hold accountable the government militia groups, the *Janjaweed*, who are killing, raping, pillaging and destroying. As they attack villages in Darfur, riding on their camels, we have heard how they are well-trained and equipped with arms supplied by his government.

We have heard how they are accompanied by helicopters and supporting government troops. Their attacks are even directed against humanitarian workers, some of whom are leaving the area as it is too dangerous. As a result, many more people will die of starvation in an avoidable crisis. Yet, it is within the easy grasp of Omar al Bashir to stop it. Why does he not? Is he ignorant, powerless or is he really behind it all?

We have heard no support for a plea of ignorance. The cries of the people of Darfur, the testimony of the witnesses and reporters and the real scenes of devastated people and property point to the fact that the world has brought enough attention to this evidence that there is no excuse. Is he powerless to intervene?

The evidence again closely links him to creating and sustaining an ongoing genocide and crimes against humanity. Today, we have heard from witnesses reporting that helicopters would first bomb the villages followed by *Janjaweed* who attacked on camels, backed up by Sudanese government troops.

We heard testimony that the *Janjaweed* got their orders from the Sudanese military. We then heard how the Sudanese military got their orders directly from the government in Khartoum. Who is in charge of that government but President Omar al-Bashir?

We heard about the racist group, "*Arabs Gathering*", that promotes and protects the interests of Arabs in Darfur so they can gain political power in a government supported power-shift to the Arabs from the Darfurians.

We have heard how Bashir does not have the support of the army and has used many "divide and conquer" techniques. We have heard testimony of how this was used to divide the *Janjaweed* from the other people of Darfur who have lived in relative peace together for many years until now.

We have heard that the *Janjaweed* are emboldened by their new position of power that enables them to commit genocide and crimes against humanity with impunity, again given by the government. We have heard about policies that foment ethnic, racial, religious and economic divide amongst the people in order to gain control over the oil.

In all of this, Omar al-Bashir has promoted a policy toward the black African that justifies wiping out a people who are considered unworthy of life and land, simply because they are dark-skinned. As the *Janjaweed* are going through villages searching for the innocent men, women and children to kill, they are using racist slogans, calling out orders to "kill the slaves," the *abeed*.

This in itself is a crime against humanity. Slavery is historically one of the most evil actions committed to others, but yet enslavement continues in the Sudan under this regime. The question is, when we talk about abolishing slavery, we should be talking about eradicating it like we do the diseases that have ravaged our physical bodies. Why are we allowing genocide, enslavement and these other horrendous crimes to go on? We must take a strong stand to stop it once and for all!

The leaders of the world have the responsibility as members of humanity to resist the forces that perpetrate such evil. When we say justice, it should mean universal justice to all, no matter what color, age, sex, and country, economic or social level one might fall under. We have eradicated polio and smallpox. Why not to eradicate such injustice to humanity?

When we, as the international community say, "*never again--never another Rwanda,*" why do we not mean it? We must not just pay lip service to it. We must stand up and be heard. I do not want to pass this curse of tolerating such genocide and crimes against humanity on to my grandchildren without trying to make a difference. I do not want to have to apologize to them, years from now, by saying I am sorry you are still suffering because I did nothing.

The international community, including the African Union and the United Nations has failed the people of Darfur and Southern Sudan. It was on April 8, 2004 when I met representatives from Darfur at the United Nations High Commission for Human Rights in Geneva. At the time, the human rights crimes in Darfur were likened to the genocide in Rwanda. Yet, as we observed a moment of silence, commemorating the 10th anniversary of that genocide, a Sudanese delegate from the government of Omar al-Bashir sat hearing their case as a member of the Commission on Human Rights! How can this be? Since that time, it has only worsened!

We cannot allow politicizing to obstruct justice. We cannot allow our own interests, apathy or inertia to interfere with making action out of our words. We cannot ignore the evidence and claim ignorance, for the evidence is plentiful and I am now ready to give my verdict as a member of this International Citizens' Tribunal for Sudan.

President Omar al-Bashir, has claimed humanity for himself and excluded the weak. He has judged himself worthy while passing a death sentence on the innocent human beings. He has created the foundation for the system that has violated the rights of millions of Sudanese, yet he has not seen them as his people. As he perhaps believed he could get away with it, he created capable witnesses and overwhelming evidence that will ultimately hold him responsible for the blood of the many he believed were silenced--but their blood cries out to us now.

It may take years to actually bring him case to a true trial, but the case has been made this day at this International Citizens' Tribunal for Sudan and my decision on the verdict is guilty! I repeat, from all the evidence presented here today, I hereby find Omar al-Bashir guilty of the charges of genocide, crimes against humanity and violations of the law and custom of war. May this verdict carry over to a court of justice capable of executing this finding!

I refuse to be on the side of the people who have run away, closed their eyes and shut their ears to the cries of these people. I have heard Kofi Annan promise, "Never again" on April 7, 2004 at the General Assembly of the UN High Commission on Human Rights. As the Darfurian presented their case and I presented the case of the Anuak, we thought others in the international community would be outraged by it if only they knew the facts. We were wrong. No one really cared.

I refuse to be on the side of people who say, "**Never again,**" but only after it is too late. I refuse to be on the side of people in a position to do something, but do not because they want to protect their legacy or have ambition that interferes with taking an unpopular position. I have not met anyone from the African Union, the United Nations, the US State Department or other similar organizations who have been fired because they have stood up against the bureaucratic red tape preventing justice.

I am doing my share right now and today. The world knows the dark stories of the Armenian genocide, the Holocaust, of Cambodia, Rwanda, and now the Sudan. With each of them, the majority of the people were silent, but there were some who stood up.

From all that I have heard here today, I am now sure Omar Bashir has failed to stop this and he could have done it. The African Union could have stopped it. So could have the UN and the Western Countries. The world has failed again. We have been witnesses to one of the worst genocides of the 21st century. But, I did not fail, the people in this room today and the people advocating and speaking up for the Darfurians, did not fail. The policy makers have failed, but those not in power, the people who tried, did not fail.

It comes down to personal responsibility. If others do not do anything, we must. This is why I am here even though this is not a court with authority that will put Omar al-Bashir in shackles today. Regardless, he is guilty. The only reason he has not been shackled is because we do not have the power.

We are not the International Criminal Court, but yet, the verdict is just as legitimate. He is guilty now. He is guilty tomorrow. He will be guilty next month, next year, ten years from now---one hundred years from now he will still be guilty. He will be guilty forever!

May all who rule over others, throughout Sudan, Africa and the world, take warning that injustice will have its final day of accounting. There are many suffering and oppressed peoples in this world. Behind their suffering and oppression are people like Omar al-Bashir who must be held accountable by those who value humankind.

While devaluing the lives of others, brutal and self-serving dictators have lost their own humanity, making life horrific for their victims. While believing that they can hang on to power indefinitely through force and deceit, they fail to see those of us ready to stand up in a court of justice as witnesses for truth and right.

Yet, even if the ruthless succeed in endlessly terrifying human kind, the God of creation and justice will ultimately make them stand in the court of divine judgment. All the blood and cries from the victims will provide the evidence. May the world take heed.

Thank you,

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Mr. Obang Metho, on the right is:

- Director of International Advocacy for The Anuak Justice Council, a human rights organization representing the Anuak people of southeastern Sudan and southwestern Ethiopia, the latter being victims of genocidal massacres by the Ethiopian army.
- Has testified on the subject of human rights before the United Nations Commission on Human Rights, the U.S. Congressional Sub-committee on Africa, Global Human Rights and International Operations, the European Parliament's Joint Committee hearing on Ethiopia, the Canadian Sub-committee on International Human Rights and has worked closely with Human Rights Watch, Amnesty International and other officials in government and non-governmental agencies in the US, Canada and Europe.
- Executive Director and Co-Founder of the Gambella Development Agency (GDA).
- Graduate of the University of Saskatchewan, Political Science. Now a citizen of Canada.

