



International Criminal Court

President: Antonio Rascón Cardenas

Defense Counsel: Génesis Marcela Aguirre Dávila

Prosecution: Luis Emilio Contreras Domínguez

Register: Nadya Nicole Alvillar Yza

Topic A: Al-Bashir Case

Topic B: Venezuela Case

I. Committee Background

The International Criminal Court (ICC) is an intergovernmental organization and international tribunal that sits in The Hague, Netherlands and it began functioning on July 1st, 2002.


The ICC has four principal organs: the Presidency, the Judicial Divisions, the Office of the Prosecutor, and the Registry. The President is the most senior judge chosen by his or her peers in the Judicial Division, which hears cases before the Court. The Office of the Prosecutor is headed by the Prosecutor who investigates crimes and initiates proceedings before the Judicial Division. The Registry is headed by the Registrar and is charged with managing all administrative functions of the ICC, including the headquarters, detention unit, and public defense office.

The Court is participating in a global fight to end impunity, and through international criminal justice. It aims to hold those responsible accountable for their crimes and to help prevent these crimes from happening again.

The Court cannot reach these goals alone. As a court of last resort, it seeks to complement, not replace, national Courts. Governed by an international treaty called the Rome Statute, the ICC is the world's first permanent international criminal court.

The creation of the Rome Statute in 1998 was in itself a historic event, marking a milestone in humankind's efforts towards a more just world. The Rome Statute then took effect in 2002, upon ratification by 60 States. In addition to founding the Court and

defining the crimes of genocide, war crimes, crimes against humanity, and –as of



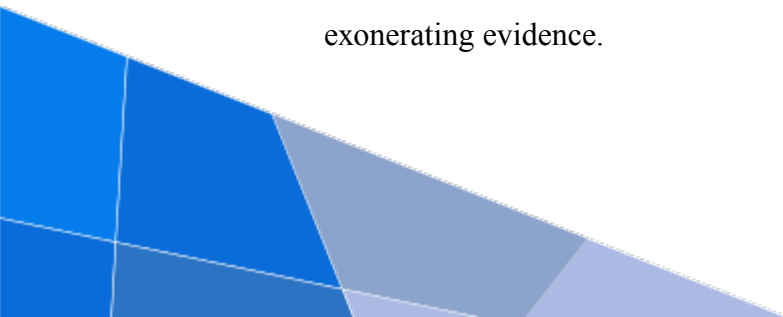
amendments made in 2010– the crime of aggression, the Rome Statute also sets new standards for victims’ representation in the Courtroom, and ensures fair trials and the rights of the defense. The Court seeks global cooperation to protect all people from the crimes codified in the Rome Statute.

The Rome Statute established three separate bodies: The Assembly of States Parties, the International Criminal Court, which comprises four separate organs, and the Trust Fund for Victims.

States Parties support the Court, accept the ICC’s jurisdiction, and also work to incorporate the rules stipulated in the Rome Statute into their own judicial systems. Thus, each country that becomes a State Party brings the world closer to an ICC universal protection under the Rome Statute system.

States Parties to the Rome Statute gather at least once a year at sessions of the Assembly of States Parties, to provide management oversight for the Court, for example, by establishing the budget, providing funding and also electing the Court’s judges and Prosecutor.

Ten key facts about the legal process by the ICC. Further to the Key Features listed above, here are some of the basics people may want to know:

- The ICC does not prosecute those under the age of 18 when a crime is committed.
 - Before the Prosecutor can investigate, he/she must conduct a preliminary examination considering such matters as sufficient evidence, jurisdiction, gravity, complementarity, and the interests of justice.
 - When investigating, the Prosecutor must collect and disclose both incriminating and exonerating evidence.
- 

- The defendant is considered innocent until proven guilty. The burden of proof lies with the Prosecutor.
- During all stages of proceedings (Pre-Trial, Trial and Appeals), the defendant has the right to information in a language he or she fully understands, thus the ICC proceedings are conducted in multiple languages, with teams of interpreters and translators at work.
- Pre-Trial judges issue warrants of arrest and ensure there is enough evidence before a case can go to trial.
- Before a case is committed to trial (during the Pre-Trial phase), the defendant is referred to as a suspect. Once the case is committed to trial, since at that point the charges have been confirmed, the defendant is referred to as the accused.
- Trial judges hear the evidence from the Prosecutor, Defense, and the Victims' lawyers, render a verdict, and if a person is found guilty, the sentence and decision on reparations.
- Appeals judges render decisions on appeals from the Prosecutor or Defense.
- If a case is closed without a verdict of guilt, it can be reopened if the Prosecutor presents new evidence.

(ICC, 2019)

II. Quorum

Judges of the International Criminal Court:

1. Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo)
2. Bertram Schmitt (Germany)
3. Chile Eboe-Osuji (Nigeria)
4. Chung Chang-ho (South Korea)
5. Geoffrey A. Henderson (Trinidad and Tobago)
6. Howard Morrison (United Kingdom)
7. Kimberly Prost (Canada)
8. Luz del Carmen Ibáñez Carranza (Peru)
9. Marc Perrin de Brichambaut (France)
10. Olga Venecia Herrera Carbuccia (Dominican Republic)
11. Péter Kovács (Hungary)
12. Piotr Hofmański (Poland)
13. Raul Cano Pangalangan (Philippines)
14. Reine Alapini-Gansou (Benin)
15. Robert Fremr (Czech Republic)
16. Rosario Salvatore Aitala (Italy)
17. Tomoko Akane (Japan)
18. Solomy Balungi Bossa (Uganda)

Topic A: Al Bashir Case

The Prosecutor vs Omar Hassan Ahmad Al Bashir

1. Brief Information of the Topic

Omar Hassan Ahmad al-Bashir is a Sudanese politician who served as the seventh President of Sudan from 1989 to 2019 and founder of the National Congress Party. He came to power in 1989 when, as a brigadier in the Sudanese Army, he led a group of officers in a military coup that ousted the democratically elected government of Prime Minister Sadiq al-Mahdi after it began negotiations with rebels in the south. Since then, he has been elected three times as President in elections that have been under scrutiny for electoral fraud. In March 2009, al-Bashir became the first sitting president to be indicted by the International Criminal Court (ICC), for allegedly directing a campaign of mass killing, rape, and pillage against civilians in Darfur.

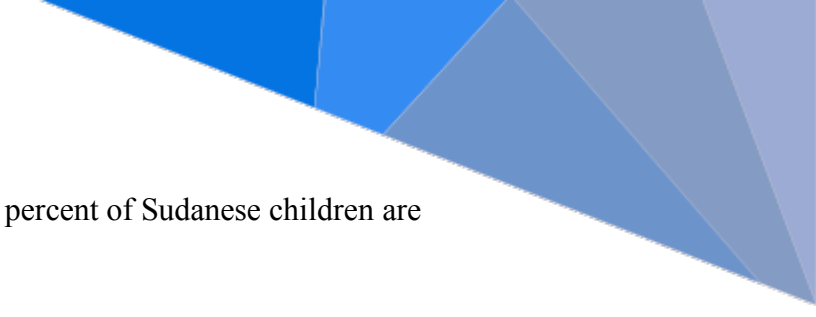
2. SDGs

1. No Poverty (Number 1)

The biggest problem country is facing is the poverty rate that is currently about 46.5 percent and continues to increase. This does not only affect men and women living in Sudan but children as well.

2. Zero Hunger (Number 2)

The U.N. World Food Program (WFP) also reports that almost 50 percent of refugees in the country are experiencing food insecurity. Because of this, malnutrition rates continue to increase, growing not only above the emergency



threshold, but even higher. Around 32 percent of Sudanese children are chronically malnourished.

3. Quality Education (Number 4)

The Global Partnership for Education (GPE) started the educational program that began in July 2013 and continues to improve the learning environment in Sudan, providing and distributing almost six million textbooks and strengthening the education system.

4. Gender Equality (Number 5)

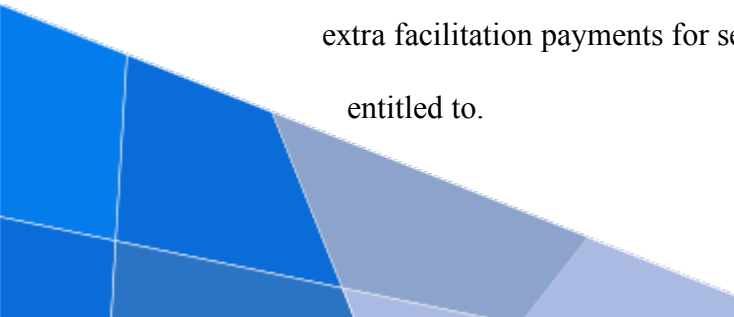
Sudan is a developing nation that faces many challenges in regard to gender inequality. Freedom House gave Sudan the lowest possible ranking among repressive regimes during 2012. There exists a historical debt related to women's protection and it is still a current and active problem. Every day there's a thousand crimes against women and they are facing the toughest challenges.

5. Decent Work and Economic Growth (Number 8)

Years of social conflict and civil war in Sudan have undermined investor confidence. The petroleum sector provides some economic stability, but other sectors face serious structural and institutional deficiencies. Currency risk was heightened in 2018 after repeated devaluations due to persistent hard currency shortages.

6. Peace, Justice and Strong Institutions (Number 16)

Corruption is a very high risk in Sudan, which is considered to be one of the most corrupt countries in the world. Public servants are known to demand extra facilitation payments for services that individuals or companies are legally entitled to.

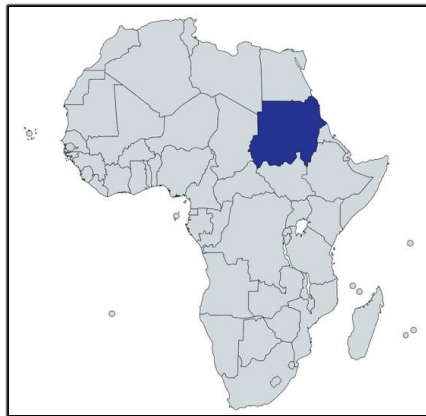


3. Guiding Questions

1. Who is Omar al-Bashir and what were his political goals?
2. What is the purpose of the Janjaweed militia?
3. Who were the main affected during the crisis and why them?
4. Why the ICC has taken so long to process al-Bashir?
5. How has the government affected the case's resolution?

4. Integrative Test

❖ Geographical Frame



Omar Hassan Ahmad al-Bashir used to be the president of Sudan, which is located in the Northeast Region of Africa, until last April when he was overthrown. The genocide, referring to the current mass slaughter and rape of Darfuri men, women, and children in Western Sudan. The killings began in 2003, as the first genocide in the 21st century, in which the government of Sudan was involved took place in Darfur.

Darfur is located in western Sudan; a vast plain about the size of the US state of Texas. It is divided into three states: North Darfur, with its capital at El Fasher; West Darfur, with its capital at El Geneina; and South Darfur, with its seat at Nyala. North

Darfur is semi desert, while the western and southern regions have rich, fertile lands.

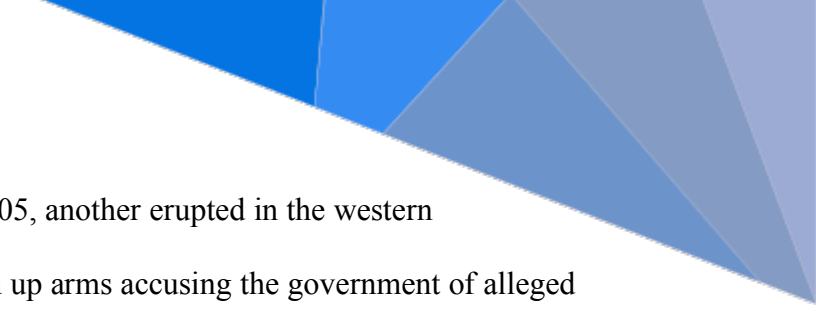
Darfur's population is estimated at 7 million. Darfur shares borders with the Central African Republic, Chad and Libya.

Also, it is important to mention that, in February 2003, the Sudan Liberation Army, which was founded as a guerrilla movement against the government of Sudan in 1983 and was a key participant of the Second Sudanese Civil War, and the Justice and Equality Movement, which is the most powerful anti-government faction involved in the conflict in Sudan's western Darfur region, rebel groups were formed by members of Fur, Zaghawa, and Masalit to demand reparation of the marginalization of Darfur and denounce the government's failure to protect the indigenous population from Arab nomad raiders.

❖ **Temporal and Historical Framework**

The former Sudanese president came to power in 1989 through a coup d'état against its predecessor, ruling with an iron fist what was Africa's largest country until 2011, when Southern Sudan split. Three years later, he was re-elected in the only multi-party elections in the Sudanese Republic in 24 years. Once his position was consolidated, the regime became increasingly repressive. It subjugated the parties and tried to wipe out the opposition groups.

When he took power, Sudan was in the middle of a 21-year civil war between the north and the south. In 2004, it became publicly known that there was an organized campaign by Janjaweed militias (nomadic Arab shepherds with the support of Sudanese government troops) to get rid of 80 black African groups from the Darfur region of western Sudan. These people include the Fur, Zaghawa and Masalit. Although his government



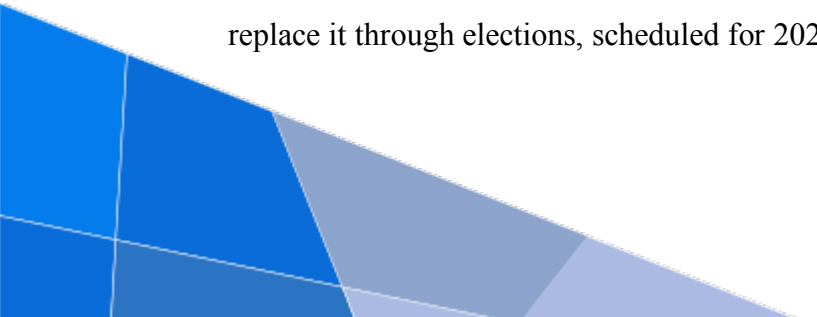
signed an agreement to end that conflict in 2005, another erupted in the western Darfur region, where in 2003 rebels had taken up arms accusing the government of alleged discrimination.

The first warrant of arrest for Omar Hassan Ahmad al-Bashir was issued on March 4, 2009, the second on July 12th, 2010.

Groups such as Human Rights Watch and Amnesty International continued to report on the destruction of villages by militias in 2013 and called on the government to investigate the attacks. Such reports also highlighted instances where Sudanese authorities had blocked UNAMID's access to certain areas. International Crisis Group released a report in January 2014 noting the failures of the implementation of the Doha Document for Peace in Darfur (DDPD) and called on the United Nation Security Council (UNSC) to refocus United Nations-African Union Mission in Darfur (UNAMID) towards the protection of civilians.

More recently, political unrest became outrageous. Protests at a national level –the largest in his 30 years as ruler– began in December 2018, after the government announced increases in fuel and bread prices. Sudan has been in economic decline for years, particularly since the secession of Southern Sudan, which deprived Khartoum of three-quarters of its oil revenues. The people are being affected by currency devaluation and rising prices.

In February 2019, al-Bashir declared a one-year state of emergency, reorganizing his cabinet and replacing all state governors with members of the army and security forces. He refused to give way to a transitional government, arguing that demonstrators should replace it through elections, scheduled for 2020.



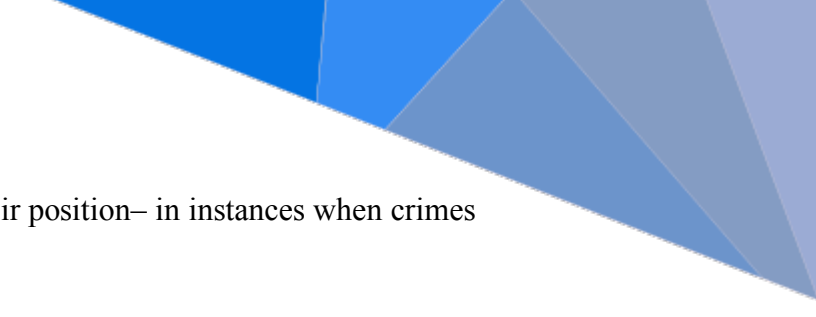
❖ **Actors Involved and Their Typology**

- Humanitarian Aid Commission. Governmental organization
- Janjaweed militia. Illegitimate group
- Justice and Equality Movement. Illegitimate group
- National Intelligence and Security Service. Governmental organization
- NATO. Intergovernmental organization
- OHCHR. Intergovernmental organization
- Sudan Liberation Army. Illegitimate group
- Sudan's government. State
- The African Union. Intergovernmental organization
- The International Criminal Court. Non-governmental organization
- United Nations. Intergovernmental organization

❖ **Power Relations and Strategic Alliances**

From March 2003 to at least July 14th, 2008, a protracted armed conflict not of an international character existed in Darfur between the Government of Sudan (mostly Janjaweed) and several organized armed groups, in particular the Sudanese Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM). For the past six years, the government of former president Omar al-Bashir officially organized the Janjaweed militia, which were used to defeat rebel groups in the country, as the Rapid Support Forces under the command of the National Intelligence and Security Services.

Also, the fact that al-Bashir was a political figure influence on how he will be processed in trial. The idea behind attempted prosecutions of sitting heads of state is that

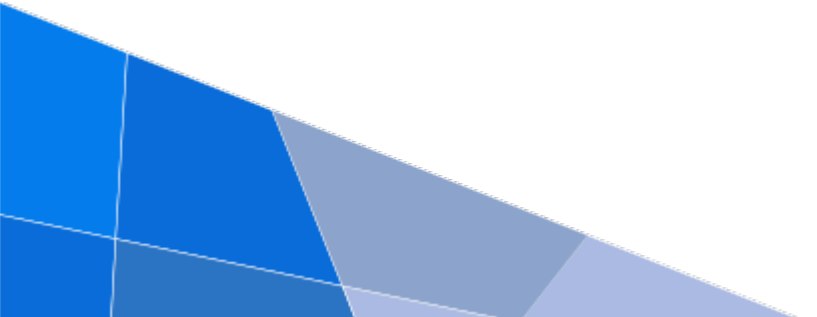


they should be prosecuted –irrespective of their position– in instances when crimes of huge magnitude have been committed.

Originally, the idea was to discourage sitting heads of states from committing heinous crimes by putting in place limits to the exercise of sovereign statehood. In other words, knowing that the position of power is not going to prevent international prosecution, should ideally act as a deterrent.

In recent years, the African Union has gone as far as suggesting that in the future the court should rather focus on mid-level officials; but if the ICC doesn't prosecute al-Bashir, it will give credit to critics who think that the court is essentially powerless against the most powerful political figures in a country. On the other hand, if it does, it would suggest that powerful individuals can only be prosecuted when they leave their positions of power. If the Court prosecuted al-Bashir right now, it would be sending a worrying message to other dictators: do whatever you want, as long as you maintain power. Or, to be even more explicit, do whatever is possible to maintain power.

The United States played a key role in helping negotiate the 2005 Comprehensive Peace Agreement (CPA) between Sudan and the Sudan Peoples' Liberation Movement (SPLM) that laid the groundwork for South Sudan's 2011 independence referendum and secession. Several disputes between Sudan and South Sudan remain unresolved post-independence, including border demarcation and the status of the Abyei region. The United States supports the efforts of the African Union (AU) to help the countries work through these issues.



❖ Ideologies Involved

Racism in Africa is multi-faceted and dates back several centuries. It was originally strengthened by European colonialism, under which boundaries were drawn that did not take into consideration the different people dwelling within the newly formed provinces. The boundaries were little changed when former European colonies gained independence. As a consequence, some African nations have been plagued by inner conflicts, prejudiced attitudes and tribal warfare.

Islamic fundamentalism is applied to Muslims who are thought to adhere strictly to ancient doctrines, to literal readings of the Quran, and are determined to resist modernity and modernization. It is also used for Muslims who want to use the traditions of Islam as a blueprint to build a more just society through the application of Quran law. (Watt, 2018)

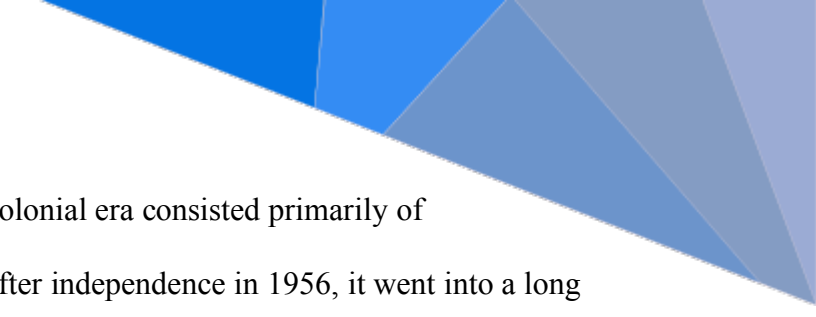
After decades of successfully exploiting Sudan's racial divides between ethnic Arabs who live along the Nile River and ethnic Africans in Sudan's Darfur region, a new generation is fed up and is hoping ethnic solidarity.

❖ Economic and Commercial Aspects

The trigger for the demonstrations that brought the downfall of President Omar al-Bashir in April was the trebling of the price of bread last December. It came after a major devaluation of the Sudanese pound in an effort to make the official rate for the pound drop to that of the black market. With the International Monetary Fund pushing for austerity and the rate of inflation hovering around 70%, the camel's back was finally broken.

In fact, the immediate cause of the economic crisis that brought many thousands of Sudanese out onto the streets in December last year and continued up to and beyond al-

Bashir's downfall lay in the structure of the economy itself.



Sudan's inherited economy from the colonial era consisted primarily of agricultural exports, particularly cotton. But after independence in 1956, it went into a long decline in the face of man-made fibres and a lack of success in the development of alternative crops with the partial exception of sugar.

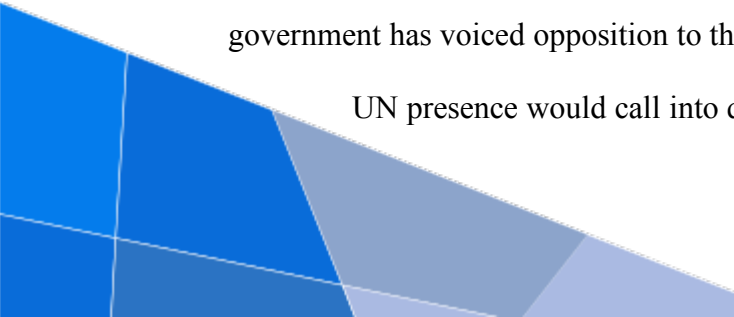
Today's violence is even more visibly fueled by monetary motivations, which include land grabbing; consolidating control of recently discovered gold mines; manipulating reconciliation conferences for increased "blood money"; expanding protection rackets and smuggling networks; demanding ransoms; undertaking bank robberies; and resuming the large-scale looting that marked earlier periods of the conflict. Recently, many Janjaweed groups, including those incorporated into the Sudanese government's Border Guards and Central Reserve Police, have slipped out of government control as patronage networks have shrunk with declining government budgets. Janjaweed militias have increasingly undertaken criminal activities to make up for lost revenues. During the past six months, the regime has sought to bring many of their favored Janjaweed elements back into closer alliance around shared objectives.

(Prendergast, 2013)

❖ Legal Aspects

The UN Security Council has praised the AU's efforts in Darfur but called for a transition by September 30 to UN-led, largely African peacekeeping troops. Part of the reason for the lengthy transition, says Brookings Institution Senior Fellow Roberta Cohen, is the difficulty of moving about 20,000 troops into the remote region. Although Bashir's government has voiced opposition to the presence of UN troops in Sudan, claiming that a

UN presence would call into question the nation's sovereignty, Prendergast, the



International Crisis Group Senior Advisor, predicts, with strong diplomacy and pressure, "they will accept UN forces there".

The UN Security Council also declared on April 25th travel and financial sanctions against four Sudanese nationals accused of war crimes related to Darfur. Two of the individuals were from the rebel groups, one was a former Sudanese air force head, and the fourth was a pro-government militia leader. Initially, China and Russia opposed the Security Council resolution, but they eventually abstained. (Zissis, 2007)

As well, the Convention on the Prevention and Punishment of the Crime of Genocide has taken part by considering the declaration made by the General Assembly together with the Human Rights backup.

The information provided by the International Criminal Court establishes that: The first warrant for arrest for Omar Hassan Ahmad al-Bashir was issued on March 4th, 2009, and the second on July 12th, 2010. In issuing the warrant, Pre-Trial Chamber I stated that there are reasonable grounds to believe that:

- Soon after the April 2003 attack on the El Fasher airport, Omar Al Bashir and other high-ranking Sudanese political and military leaders of the GoS agreed upon a common plan to carry out a counter-insurgency campaign against the SLM/A, the JEM and other armed groups opposing the Government of Sudan in Darfur.
- A core component of that campaign was the unlawful attack on part of the civilian population of Darfur –belonging largely to the Fur, Masalit and Zaghawa groups– who were perceived to be close to the organized armed groups opposing the Government of Sudan in Darfur. The campaign was conducted through GoS forces, including the Sudanese Armed Forces and their allied Janjaweed militia, the Sudanese Police Force, the National Intelligence and Security Service (NISS) and

the Humanitarian Aid Commission (HAC). It lasted at least until the date of the filing of the Prosecution Application on July 14th, 2008.

- During the campaign, GoS forces allegedly committed crimes against humanity, war crimes, and crimes of genocide, and in particular:
 - a. carried out numerous unlawful attacks, followed by systematic acts of pillage, on towns and villages, mainly inhabited by civilians belonging to the Fur, Masalit and Zaghawa groups;
 - b. subjected thousands of civilians –belonging primarily to the Fur, Masalit and Zaghawa groups– to acts of murder, as well as to acts of extermination;
 - c. subjected thousands of civilian women –belonging primarily to the said groups– to acts of rape;
 - d. subjected hundreds of thousands of civilians –belonging primarily to the said groups– to acts of forcible transfer;
 - e. subjected civilians –belonging primarily to the said groups– to acts of torture; and
 - f. contaminated the wells and water pumps of the towns and villages primarily inhabited by members of the Fur, Masalit and Zaghawa groups that they attacked; and encouraged members of other tribes, which were allied with the GoS, to resettle in the villages and lands previously mainly inhabited by members of the Fur, Masalit and Zaghawa groups.

Pre-Trial Chamber I also found that there are reasonable grounds to believe that:

- Omar al-Bashir, as the de jure and de facto President of the State of Sudan and Commander-in-Chief of the Sudanese Armed Forces at all times relevant to the

Prosecution Application, played an essential role in coordinating the design and implementation of the common plan;

- and, in the alternative, that Omar al-Bashir also:
 - a. played a role that went beyond coordinating the implementation of the said GoS counter-insurgency campaign;
 - b. was in full control of all branches of the "apparatus" of the State of Sudan, including the Sudanese Armed Forces and their allied Janjaweed militia, the Sudanese Police Forces, the NISS and the HAC; and
 - c. used such control to secure the implementation of the said GoS counter-insurgency campaign.

Pre-Trial Chamber I found that there are reasonable grounds to believe that Omar al-Bashir acted with specific intent to destroy in part the Fur, Masalit and Zaghawa ethnic groups.

The charges have been partially determined and establish that: the warrants of arrest for Omar al-Bashir list ten counts on the basis of his individual criminal responsibility under article 25(3)(a) of the Rome Statute as an indirect (co) perpetrator including:

- Five counts of crimes against humanity: murder (article 7(1)(a)); extermination (article 7(1)(b)); forcible transfer (article 7(1)(d)); torture (article 7(1)(f)); and rape (article 7(1)(g));
- Two counts of war crimes: intentionally directing attacks against the civilian population as such or against individual civilians not taking part in hostilities (article 8(2)(e)(i)); and pillaging (article 8(2)(e)(v)); and
- Three counts of genocide: genocide by killing (article 6-a), genocide by causing serious bodily or mental harm (article 6-b) and genocide by deliberately inflicting

on each target group conditions of life calculated to bring about the group's physical destruction (article 6-c).
(ICC, 2018)

❖ **Sociocultural Aspects:**

Since the beginning of the conflict, almost 2 million Darfurians –a third of the region's population– have been internally displaced as a result of the systematic destruction of villages. An estimated 350,000 people in the region have died as a result of violence, disease, and starvation, according to a report by the Office of the UN High Commissioner for Refugees. (UN, 2018)

All Darfurians are black Muslims even though many identify as Arab based on genealogy linked to Saudi Arabia. They practice a form of the religion that is infused with Sufism and animism and is held in contempt by the Arab Islamic government of Khartoum. "The ethnic cleansing in Darfur is a combination of wanting to convert Muslims who are looked on as going astray and driving them off the land," says Robert Collins, an expert in African history at the University of Santa Barbara, California.

According to Sidahmed, the relationship between Islam and the State has been a source of intensive debate regarding the constitutional form of the State, its legal system and the general cultural and socio-political orientation of the country. It is also an issue that runs through the debate on the country's identity: Arab/Islamic, Afro-Arab, African or exclusively Sudanese.

It is important to mention that, from the beginning of Sudan's independent life, the main parties in the north were based on sectarian or religious affiliations and were therefore regarded as having an Islamic orientation in general terms. However, these parties

did not lead an Islamic jihad against the British-dominated imperial state, nor did they seek an alternative Islamic state after Independence. (Sidahmed, 2005)

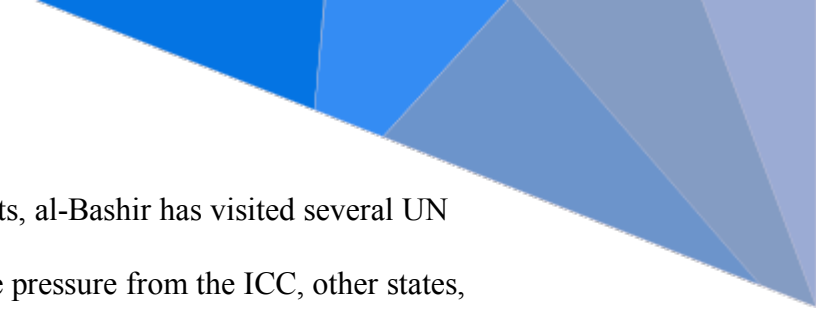
Arabism plays also an important role. According to Deng, as a consequence of the racial stratification associated with ideological models in which Arabs are considered superior to Africans, the assimilation of Arab culture in the North has produced a self-conception which, despite visible evidence, denies or rejects African genetic origin.

The policies of Arabisation and Islamisation aimed at establishing an Islamic state in Sudan are the culmination of the process of defensive self-affirmation of the ruling elite, which, in turn, has become violently offensive. This is because the more questioned or challenged –by the African majority– the imposition of this Arab/Islamic perception on the country, the more coercive and violently it has been asserted by the ruling Arab minority, even with the moral and material backing of other Arab/Islamic governments. (Deng, 1995: 486)

❖ **Background Analysis of the Represented Committee**

The ICC's case stretches back to 2005 with the publication of a UN report that accused the Sudanese government of systematic abuses in Darfur. The United Nations Security Council then referred the suspects to the ICC.

In the following years, the ICC would release two arrest warrants against al-Bashir –in 2009 and in 2010– on several counts of genocide, war crimes, and crimes against humanity. In 2014, the ICC's Chief Prosecutor Fatou Bensouda shelved the case due to a lack of cooperation in pushing for al-Bashir's arrest. Many saw the shelving as emblematic of the court's lack of power over powerful individuals, especially sitting heads of state.



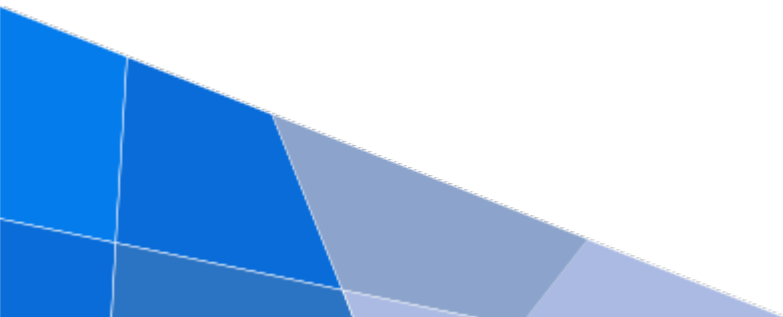
Since the ICC issued his arrest warrants, al-Bashir has visited several UN and ICC member states without arrest, despite pressure from the ICC, other states, international organizations and civil society. Nevertheless, he has become increasingly isolated in the international arena with his international travel greatly curtailed by the threat of legal action, often instigated by national civil society groups.

NGOs in several countries, including South Africa, Uganda, Kenya, Djibouti, Malawi, India and Indonesia have called on their governments to uphold their obligations – as members of the ICC, the UN, or both– to turn away or arrest al-Bashir.

There have been several active attempts to oblige national authorities to arrest al-Bashir, including Angola, Mali, Kenya, South Africa, Nigeria, the Democratic Republic of Congo, Ethiopia, Egypt, Morocco, Zambia, Rwanda and Chad.

ICC judges, meanwhile, have referred instances of non-cooperation by states to the Assembly of States Parties as well as the UN Security Council. However, no further action has been taken by either body. The UN Security Council, having referred the situation to the ICC, has consistently failed to ensure al-Bashir's arrest. (Coalition for the ICC, 2018)

Until Omar al-Bashir is arrested and transferred to the seat of the Court in The Hague, the case will remain in the Pre-Trial stage. The ICC does not try individuals unless they are present in the courtroom.



Topic B: Venezuela Case

Six States Request ICC Investigation

1. Brief Information of the Topic

A socioeconomic and political crisis that began in Venezuela during the presidency of Hugo Chávez, has continued into the presidency of Nicolás Maduro. It is marked by hyperinflation, escalating starvation, disease, crime and mortality rates, resulting in massive emigration from the country. The situation is the worst economic crisis in Venezuela's history and the worst facing a country that is not experiencing war since the mid-twentieth century.

On September 26th, 2018, the governments of Argentina, Canada, Chile, Colombia, Paraguay, and Peru referred the situation in Venezuela to the ICC prosecutor, Fatou Bensouda, for investigation. This is the first time that ICC member governments have sought an investigation of potential crimes that took place entirely on the territory of another country.

“This unprecedented step reflects the growing alarm among other countries about the human rights catastrophe that has overtaken Venezuela,” said José Manuel Vivanco, Americas director at Human Rights Watch. “With the request to the ICC prosecutor, these governments are making clear that the total lack of justice for Venezuela's ongoing abuses is unacceptable”. (Human Rights Watch, 2018)

2. SDGs

Due to Venezuela's economic and social problems they don't really fulfill any SDG completely, so only the ones that Venezuela completely breaks and are more related to the discussed issues are the following:

1. No Poverty (Number 1)

More than 75% of the workers in Venezuela are unable to maintain a worthy life because of reasons. The first reason is that they earn very low amounts of money and the second reason is that inflation makes it almost impossible to be able to buy things with their national coin.

2. Zero Hunger (Number 2)

Hunger is an everyday thing in Venezuela. Families don't earn enough money to be able to sustain themselves economically. Another issue is the lack of supplies in the supermarkets reporting that supermarkets are running in less than 40% of their full capacity. These factors on a daily basis make people have to do lines of hours to see if they can get food from volunteers. Many people report that they have gone more than one day without eating any food and 75% declare that they have suffered some kind of weightless due to the lack of proper nutrition.

3. Good Health and Well-Being (Number 3)

Quality Health Care is something that is needed in a society where people don't eat well and are weak but in the case of Venezuela this is completely the opposite.

Health care is very deficient in this country, medical services are common lacking essential items from gloves and medicine to electricity and running water. It is common that the patient needs antibiotics but there are almost always lacking them, so they give patients other medicines instead, but it is also common that these

also run out. The problem doesn't stop here, there is a lack of the bigger most complex instruments one needs for surgery, like heart surgery for example.

4. Decent Work and Economic Growth (Number 8)

Despite that Venezuela has some of the biggest reserves of oil in the world, this industry is the worst it has been in 50 years. Most of the jobs in Venezuela are health risking and have extreme labor journeys and all this to earn a ridiculously low amount of money that won't be enough to even fulfill the alimentary needs of the family of the worker.

5. Industry Innovation and Infrastructure (Number 9)

The biggest industry in Venezuela is the petroleum industry but it is at the worst point it has ever been and experts say it will only get a decrease in the next years if Venezuela keeps up with the path they're going.

6. Peace, Justice and Strong Institutions (Number 16)

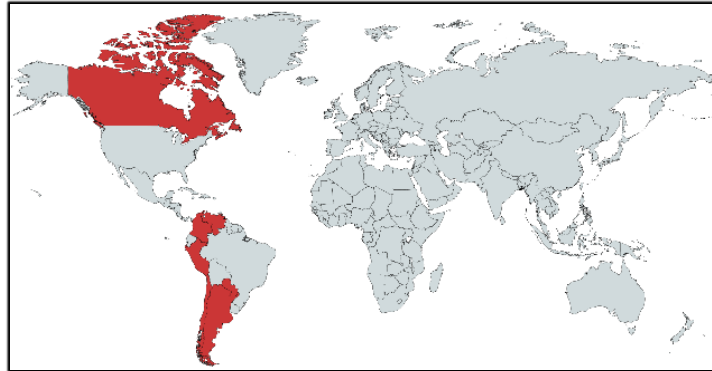
Peace and justice is something that Venezuelan people haven't known for a long time. In their day to day life, they constantly live with the pressure that they don't even know if they are going to eat that day and there is nothing they can do, if they try to do something they might get killed, disappeared, and even tortured.

3. Guiding Questions

1. Why did other countries get involved?
2. What actions have been taken to solve actual political issues in Venezuela?
3. What laws or treaties protect Venezuela's government?
4. What fundamental decisions has Maduro taken during his years in power?
5. How has the ICC managed the process?

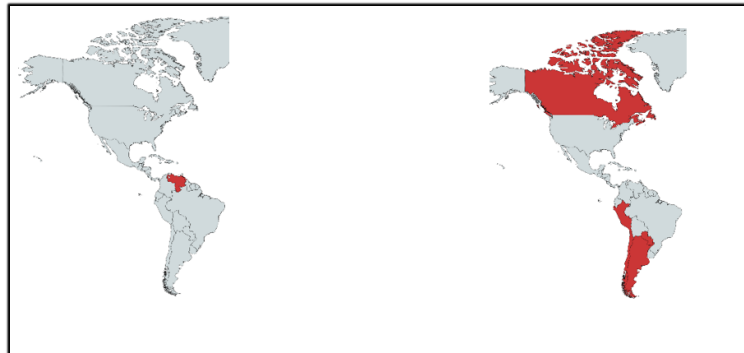
4. Integrative Test

❖ Geographical Frame



Accused Countries

Demanding countries



The primary geographic zone involved directly with this problem of the un humanitarian situation from Venezuela is South America, but there is also a contribution from North American countries. The specific countries involved in this were originally Paraguay, Colombia, Chile, and Argentina, Peru and Canada added their signatures to the document that was presented to the ICC on Wednesday, September 26th, 2018 with the accused country being Venezuela based on the article 14 of the statue that states

A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or

more specific persons should be charged with the commission of such crime (HRW, 2018).

❖ Temporal and Historical Framework

Back in 1998, Hugo Chávez won the Presidential elections and became the President of Venezuela. He then called a Constitutional Assembly (an assembly that the people supported through a referendum) to rewrite Venezuela's Constitution. Chavez and his supporters wrote the 1999 Venezuela Constitution, which was called by many one of the most democratic constitutions in modern history.

Chavez ran for President again in 2000, once the new Constitution took over. He won and started to implement some of the things he promised, like social programs for the people in need. Chavez was President of Venezuela from 1998-2013 and he was, in fact, a democratic leader. The people wanted him in power.

Hugo Chávez dies shortly after the 2012 Presidential Elections, leaving his Vice-President, Nicolas Maduro, in power until new elections were held in 2013 (if a Venezuelan president dies before a certain amount of time has passed in his or her term, the 1999 Constitution mandates that new elections be called). Nicolas Maduro narrowly won the election against a leading opposition figure, and while at that point there were accusations of cheating on Maduro's part, the election was widely accepted as legitimate.

Recently, an opposition lawmaker named Juan Guaidó declared the current government illegitimate and announced that he would be willing to lead a caretaker government. On its own, Mr. Guaidó's statement can't force any real change; but it has heightened speculation that the military could push out the government.

A recent report by the Office of the High Commissioner for Human Rights (OHCHR) found that between July 2015 and March 2017, Venezuelan security forces killed 505 people, including 24 children. Some of the killings were extrajudicial executions. (HRW, 2018)

Human Rights Watch research also shows that the abuses were not isolated cases or the result of excesses by rogue security force members. Instead, various security forces committed widespread abuses repeatedly over a period of several months in multiple locations across the country, including in controlled environments such as military installations, both in 2014 and in 2017.

Due to past aggressive events, Argentina, Paraguay, Colombia, Chile, Peru and Canada decided to take Venezuela's government to the International Criminal Court.

❖ **Actors Involved and Their Typology**

- Argentina. State
- Canada. State
- Chile. State
- Colombia. State
- Humanitarian Aid Commission. Governmental organization
- International Criminal Court. Non-governmental organization
- OHCHR. Intergovernmental organization
- Paraguay. State
- Peru. State
- Venezuela. State

- Venezuelan Society. Public

❖ **Power Relations and Strategic Alliances**

Impunity also appears to be pervasive in favor of security officers allegedly responsible for the killing of at least 46 people during protests last year. The former Attorney-General had issued at least 54 arrest warrants but so far, the UN Human Rights Office is aware of only one case in which a formal trial has started. Evidence has reportedly disappeared from case files, and members of the Attorney-General's office in charge of investigating the cases were replaced when the new Attorney-General took office in August last year. The Bolivarian National Guard (GNB) has also reportedly blocked investigations.

“State authorities have failed to promptly and effectively investigate the excessive use of force and the killings of protestors by security forces,” the report states, citing testimony from several relatives of victims stating that “they had lost trust in the justice system and did not expect the Government to ensure accountability” (ACNUDH, 2019).

According to information received, security forces suspected of extrajudicial killings of demonstrators have in some cases been released despite judicial detention orders. All of the victims' relatives interviewed said they did not have faith in the Government's Commission on Truth, Justice, Peace and Public Tranquility.

“The failure to hold security forces accountable for such serious human rights violations suggests that the rule of law is virtually absent in Venezuela,” UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein said (NEWS WIRE, 2018). “For years now, institutional checks and balances and the democratic space in Venezuela have been chiseled away, leaving little room to hold the State to account. The impunity must end” (Briceño, 2018).

As the Venezuelan Government has not granted the UN Human Rights Office access to the country despite repeated requests, and given the scale and scope of violations, High Commissioner Zeid has recommended that the UN Human Rights Council established a Commission of Inquiry into the situation in Venezuela. (OHCHR, 2018)

Then, the US and many other countries are supporting Guaidó in his decision to be interim president. The fact that Venezuela has many oil reserves and since is the center of many issues nowadays, the idea of important countries being interested in Venezuela's well-being might be only for their own economic interests isn't that crazy.

❖ **Involved Ideologies**

Chavismo has its origins in the beginnings of Chavez's political career. In 1997, the Fifth Republic Movement was founded to support Chavez in the 1998 presidential elections. The Movement was named the fifth republic because at the time, Venezuela was in its fourth republic and the movement intended to renew the state of Venezuela on revolutionary policies.

A key belief of Chavismo is that the state should support social welfare programs for its citizens. For instance, Chavez often used populist rhetoric to galvanize the lower classes and the disenfranchised with promises to make their lives better. Revenue from Venezuela's significant oil reserves were put into programs designed to reduce poverty, improve education, and establish social justice and social welfare within Venezuela.

Some tenets of Chavismo include nationalization of industries, and a strongly anti-neoliberal stance on economic issues with an emphasis on participatory democracy.

Systems of "Bolivarian missions" exist in order to bypass the red tape that often comes

with bureaucracy and where citizens can gather to express their opinions directly and have their voices heard.

Not surprisingly for a revolutionary political movement, Chavismo strongly identifies with the historic figure of Simón Bolívar, the 19th century liberator of Latin America from Spanish colonialism.

The centerpiece of Chavista ideology is anti-imperialism. Chavismo sees itself as a national liberation movement trying to: break the hold of the United States, strengthen its own sovereignty, demand more for its commodities, and develop its economy. It assumes that imperial powers will not let go easily and will try to undermine any efforts at national liberation. (WOLA, 2017)

❖ **Economic and Commercial Aspects:**

Venezuela's economy is passing through one of its toughest points in all its history. The main income of Venezuela or its primary industry is petroleum because they have huge amounts of petroleum in their land; but even with more technologies and more advanced process of extraction, this industry is producing about 2.3 times less than in the 1970s. To put that into perspective, 40 years ago the percentage of barrels produced a day was of 3.5 million and nowadays the percentage is only 1.5 million, which is less than the half. The drop of oil production can be attributed largely to the poor handling of this industries after the takeovers under the previous president Hugo Chávez and actual president Nicolas Maduro; but problems started since the 1980s and 1990s when the prices of oil dropped. These facts are more shocking if they go back to the 1950s when Venezuela was the wealthiest country in South America. Venezuela's economic crisis doesn't only stop there, their unemployment rate stands up at a 44% and is likely to hit the 50% during the

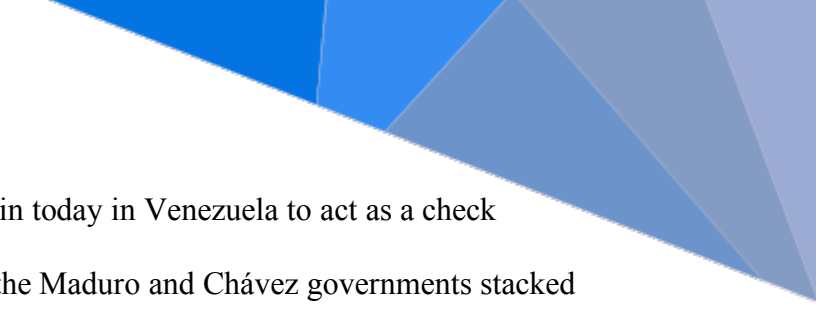
next year, but these are only speculations because Venezuela hasn't stated an official unemployment figure since 2016 when they claimed that the unemployment rate was only 7.3. But the problem that really stands out of the other is the inflation of its coin that with the rate it is going it is likely to hit inflation of 10 million percent. This is a serious problem considering that the monthly payment of a worker can't even afford a gallon of milk. To be able to put in perspective and understand better the problem one single roll of toilet paper costs around 2,600,000 Venezuelans, without inflation, that same toilet paper roll would have cost 40 cents. Severe shortages of medicines, medical supplies, and food leave many Venezuelans unable to feed their families adequately or access essential healthcare. The massive exodus of Venezuelans fleeing repression and shortages represents the largest migration crisis of its kind in recent Latin American history.

Maduro has faced severe economic crisis hastened by the collapse in the price of oil, which provides Venezuela with more than 90% of its foreign revenue.

Despite hyperinflation and mass outward migration, he has insisted on the statist economic policies started by Chávez, and like him, has blamed problems on "sabotage" by local elites and "imperialists", while the opposition accuses him of mismanagement and increased authoritarianism.

❖ Legal Aspects

The principal legal issue of Venezuela's problem is the violation of human rights by Maduro's government, but this is a problem that comes since Chavez's government. The amount of power acquired by Hugo Chávez, and then passed to Nicolas Maduro has been so excessive that during this period of more than 20 years it has given them the ways to intimidate the whole country and be able to do whatever they want.

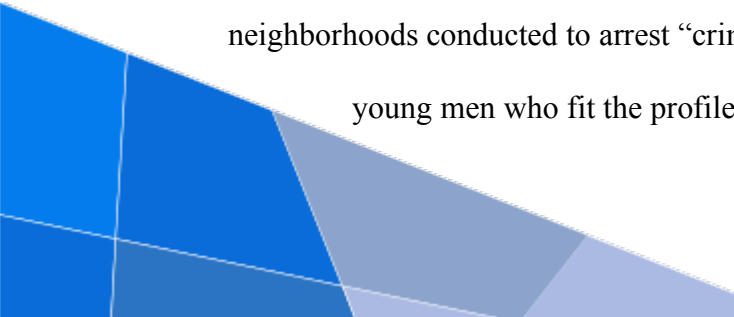


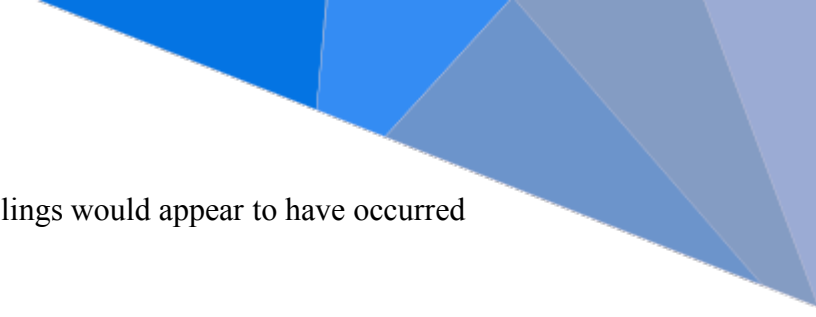
No independent government institutions remain today in Venezuela to act as a check on executive power. A series of measures by the Maduro and Chávez governments stacked the courts with judges who make no pretense of independence.

There is not an official record of everything that has happened or the exact numbers because it is extremely dangerous to talk about this subject to the public. There is a large number of cases in which journalists that talk about human right's violations have been attacked.

GENEVA (22 June 2018) –A UN Human Rights report published on Friday spotlights the failure of Venezuelan authorities to hold accountable perpetrators of serious human rights violations that include killings, the use of excessive force against demonstrators, arbitrary detentions, ill-treatment and torture. The report also lays bare the grave impact of the economic and social crisis in the country on the rights to food and health. All these crimes are included in article 7 of the Rome Statute. (OHCHR, 2019)

The report provides an update on several key human rights violations documented in the August 2017 UN Human Rights Office report on Venezuela. While the previous report focused on the excessive use of force and alleged extrajudicial killings in the context of demonstrations, this new report also documents credible, shocking accounts of extrajudicial killings in the course of purported crime-fighting operations carried out since 2015, known as the Operations for the Liberation of the People (OLPs). From July 2015 to March 2017, the then-Attorney-General's Office had recorded the killing of 505 people by security forces during such operations. Witness accounts suggest a pattern: raids in poor neighborhoods conducted to arrest "criminals" without a judicial warrant; the killing of young men who fit the profile, in some cases in their homes; and finally, security





forces tampering with the scene so that the killings would appear to have occurred in an exchange of fire. (OHCHR, 2018)

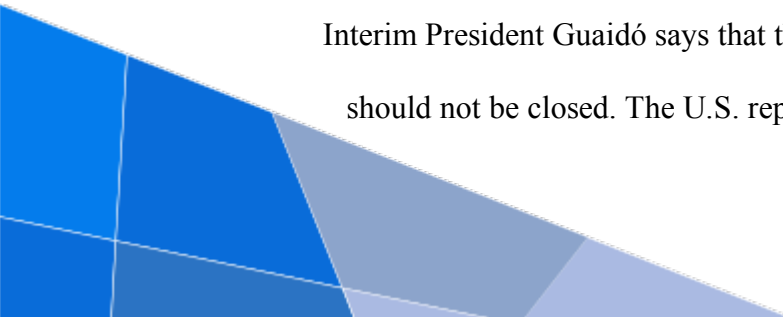
One important point that the political roots of the protests extend back to January 2016, when the Supreme Court suspended the election of four legislators for alleged voting irregularities. The opposition accused the court of trying to strip them of their super-majority and went ahead and swore in three of the legislators. The Supreme Court responded by ruling that the entire opposition-led National Assembly was in contempt and that any decisions it made would not stand.

Also, there's a new National Assembly President in town –a young man named Juan Guaidó who managed to unite the splintered opposition for what many might call a last stand. He denounces Maduro's second term and vows to establish a transitional government to return the ruins of Venezuela to democracy. He calls for nationwide protests on January 23rd.

Important note: The Venezuelan Constitution says that if there is a vacancy in the Presidency, the National Assembly President becomes Interim President and calls new Presidential Elections within 30 days. Since the 2018 elections were widely disputed and not democratic, and Maduro's first term is over, there is now a vacancy in the Presidency.

So, on January 23rd, in a mostly symbolic gesture, Juan Guaidó swears himself in as Interim President, and promises to return Venezuela to democracy. Guaidó is almost immediately recognized by the United States and several other American countries as the legitimate President of Venezuela. Maduro orders the embassy personnel of the U.S. Embassy in Caracas to leave and cuts diplomatic ties with the U.S.

Interim President Guaidó says that the personnel should stay, and that the embassy should not be closed. The U.S. replies by saying that it does not recognize Maduro



as the President, and therefore he has no power to close the American embassy. The embassy stays open, albeit with less personnel, as some were evacuated due to potential violence from the Maduro regime.

As long as Maduro keeps his top generals under his control, he will continue to be the one who calls the shots. Now it's only a matter of time before the lower-ranking members of Venezuela's military (who are suffering as much as the common people) revolt and help Guaidó assume the powers of President.

Then, new elections will be called. And hopefully, that will be the end of this huge scandal in Venezuela, the Bolivarian Revolution.

❖ **Sociocultural Aspects**

People living in precarious conditions are fighting for a change since Chavez got power and have never agree with their policies. More than 12,500 people have been arrested since 2014 in connection with protests against the government, according to the Penal Forum. These include not only demonstrators but bystanders, and people taken from their homes without warrants. Around 7,300 had been conditionally released at time of writing, but they remained subject to criminal prosecution. In 2017, military courts prosecuted more than 750 civilians, in violation of international human rights law. (HRW, 2018)

Nonetheless, there's people who support Maduro's and its predecessor ideas. Subero, a retired sergeant, leads one of the dozens of groups called "colectivos" or "collectives", which see themselves as the defenders of Chávez's Bolivarian revolution and vow to defend his successor, President Nicolás Maduro, as he faces his biggest challenge yet. People who support him usually support socialism and tend to be benefited from him ideas and decisions.

❖ **Background Analysis of the Represented Committee**

The preliminary examination of the situation in Venezuela was announced on February 8th, 2018. It will analyze crimes allegedly committed in this State Party since at least April 2017, in the context of demonstrations and related political unrest.

In particular, it has been alleged that State security forces frequently used excessive force to disperse and put down demonstrations and arrested and detained thousands of actual or perceived members of the opposition, a number of whom would have been allegedly subjected to serious abuse and ill-treatment in detention. It has also been reported that some groups of protestors resorted to violent means, resulting in some members of the security forces being injured or killed.

On September 27th, 2018, the Office received a referral from a group of States Parties to the Rome Statute, namely the Argentine Republic, Canada, the Republic of Colombia, the Republic of Chile, the Republic of Paraguay and the Republic of Peru, regarding the situation in the Bolivarian Republic of Venezuela since February 12th, 2014. Pursuant to article 14 of the Statute of the International Criminal Court, the referring States request the Prosecutor to initiate an investigation on crimes against humanity allegedly committed in the territory of Venezuela since February 12th, 2014, with a view to determining whether one or more persons should be charged with the commission of such crimes. On September 28th, the Presidency assigned the situation in the Bolivarian Republic of Venezuela to Pre-Trial Chamber I.

To mention, one important impact of the referral by member countries is that should the ICC prosecutor conclude that an investigation is warranted, her office can open one without first seeking approval by a panel of ICC judges. This judicial approval would have been required without a referral by other member countries.

References

- African Union. *AU in a nutshell*. Retrieved June 18 of 2019, from <https://au.int/en/au-nutshell>
- Argentina's Macri to report Venezuela to ICC over human rights. (2019). Retrieved from <https://www.reuters.com/article/us-argentina-macri-venezuela/argentinas-macri-to-report->
- BBC News. (2019). *Venezuela crisis*. Retrieved July 16 of 2019, from <https://www.bbc.com/news/world-latin-america-47118139>
- BBC. ¿Quién es Omar Al-Bashir? Retrieved June 15 of 2019, from <https://www.bbc.com/mundo/noticias-internacional-47899454>
- BBC. *Who are Sudan's Darfur Rebels?* Retrieved June 16 of 2019, from <http://news.bbc.co.uk/2/hi/africa/7039360.stm>
- Bearak, M. *Omar al-Bashir exploited Sudan's ethnic division for decades*. Retrieved June 18 of 2019, from https://www.washingtonpost.com/world/omar-al-bashir-exploited-sudans-ethnic-division-for-decades-now-sudan-is-united-against-him/2019/01/19/a7b5d0a0-1851-11e9-b8e6-567190c2fd08_story.html?noredirect=on&utm_term=.d925fd012749
- Bio, D., Ruseler-Smith, N., Sheinerman, M., Staff, B., Nichols, P., & Ruseler-Smith, N. et al. (2019). Argentina, Five Other Countries, Report Venezuela to the ICC. Retrieved from <https://www.thebubble.com/argentina-reports-venezuela-to-the-international-criminal-court>
- Coalition for the International Criminal Court. *Al-Bashir*. Retrieved June 18 of 2019, from <http://www.coalitionfortheicc.org/cases/omar-albashir>

Cultural Survival. *A Closer Look: Sudan The People of Darfur*. Retrieved June 17 of 2019, from <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/closer-look-sudan-peoples-darfur>

Economic Freedom. *Sudan*. Retrieved June 15 of 2019, from <https://www.heritage.org/index/country/sudan>

Etefa, T. Explainer: tracing the history of Sudan's Janjaweed militia. Retrieved June 16 of 2019, from <https://origins.osu.edu/article/whats-name-meaning-muslim-fundamentalist>

Explainer: The Case against Venezuela in the ICC | AS/COA. (2019). Retrieved from <https://www.as-coa.org/articles/explainer-case-against-venezuela-iccvenezuela-to-icc-over-human-rights-idUSKCN1L51FG>

Flint, Julie y Alex De Waal, (2008) *Darfur: A New History of a Long War*. Londres, Zed Books.

GmbH, f. (2019). 9 mind-blowing facts about Venezuela's economy | Markets Insider. Retrieved from <https://markets.businessinsider.com/news/stocks/venezuela-economy-facts-2019-5-1028225117#inflation-in-venezuela-may-hit-10-million-percent-this-year1>

I.D.F. y Munzoul Assal, (2010) "The National Congress Party and the Darfurian Armed Groups" en Black, David y Paul D. Williams (eds.), *The International Politics of Mass Atrocities: The Case of Darfur*. Nueva York, Routledge.

International Criminal Court. (1998). *Rome Statute of the International Criminal Court*. [PDF file]. Retrieved from <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

International Criminal Court. (2018). *The Prosecutor v. Omar Hassan Ahmad Al-Bashir*.

[PDF file] Retrieved from <https://www.icc-cpi.int/CaseInformationSheets/albashirEng.pdf>

International Criminal Court. *Al Bashir Case*. Retrieved June 15 of 2019, from

<https://www.icc-cpi.int/darfur/albashir/Pages/default.aspx>

Ministerio de Asuntos Exteriores, Unión Europea y Cooperación. *Corte Penal*

Internacional. Retrieved June 15 of 2019, from

<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/NacionesUnidas/Paginas/CortePenalInternacional.aspx>

Nicolas Maduro | Biography, Facts, & Presidency. (2019). Retrieved from

<https://www.voanews.com/americas/amnesty-international-accuses-maduro-crimes-against-humanity>
<https://www.britannica.com/biography/Nicolas-Maduro>

NYT. (2019). *In fight for Venezuela*. Retrieved July 13 of 2019, from

<https://www.nytimes.com/2019/02/04/world/americas/venezuela-support-maduro-guaido.html>

Sabga, P. (2019). What brought Venezuela's economy to ruin? Retrieved from

<https://www.aljazeera.com/news/2019/02/brought-venezuela-economy-ruin-190201152238535.html>

SciELO. (2016). *The Causes of the Darfur War. An Analysis Based on Barbara Harff's*

Model. [PDF file]. Retrieved from

http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0185-19182016000300365

The Guardian. *Al-Bashir charged with Darfur genocide*. Retrieved June 17 of 2019, from <https://www.theguardian.com/world/2010/jul/12/bashir-charged-with-darfur-genocide>

The Guardian. *Omar al-Bashir celebrates ICC decision to halt Darfur investigation*. Retrieved June 17 of 2019, from <https://www.theguardian.com/world/2014/dec/14/omar-al-bashir-celebrates-icc-decision-to-halt-darfur-investigation>

UN Human Rights. *Convention on the Prevention and Punishment of the Crime of Genocide*. Retrieved June 20 of 2019, from <https://www.ohchr.org/en/professionalinterest/pages/crimeofgenocide.aspx>

Venezuela. (2019). Retrieved from <https://www.icc-cpi.int/venezuela>

Watt, D. *What's in a name?* Retrieved June 17 of 2019, from <https://origins.osu.edu/article/whats-name-meaning-muslim-fundamentalist>

What does it mean that Argentina and five others are taking Venezuela to the International Criminal Court? - Argentina Reports. (2019). Retrieved from <https://argentinareports.com/argentina-venezuela-icc/1841/>

WOLA. (2017). *A Cultural Sociological Take on the Venezuela Conflict*. Retrieved July 14 of 2019, from <https://venezuelablog.org/cultural-sociological-take-venezuela-conflict/>

World Report 2019: Rights Trends in Venezuela. (2019). Retrieved from <https://www.hrw.org/world-report/2019/country-chapters/venezuela>
<https://www.hrw.org/world-report/2019/country-chapters/venezuela>

