

In the name of Allah, the Most Gracious, the Most Merciful

**The Eighth Session
Criminal Act 1991 (Amendment) 2009**

In accordance with the provisions of the Interim Constitution of the Republic of the Sudan, the following Act has been passed by the National Assembly and signed by the President of the Republic:

Title and commencement

1. This Act shall be cited as “The Criminal Act 1991 (Amendment) 2009” and shall come into force from the date of signature thereof.

Amendment

2. The Criminal Act , 1991 shall be amended as follows:

(a) Article 3:

The following phrase and its interpretation shall be added:

“Protected Persons” means:

(First): International armed conflicts:

Persons protected by the 4th Geneva Conventions of 1949 and the Additional Protocol I of 1977, including: the wounded, sick, and shipwrecked of any armed forces and prisoners of war and civilians, members of any armed forces who have laid down their arms and those placed hors de combat for any other cause.

(Second): Non-international armed conflicts:

Persons covered by Article 3 of the 4th Geneva Conventions of 1949 and the Additional Protocol I of 1977 including persons taking no active part in the hostilities, covering members of any armed forces who have laid down their arms and those placed hors de combat for sickness, wounds, detention, or any other cause as well as medical personnel and religious personnel.

(b) After Chapter seventeen, the new following chapter shall be added:

Chapter 18

Crimes against Humanity, Genocide, and War Crimes

Crimes against Humanity

186. He shall be punished by death or life imprisonment or any lesser punishment whoever commits by himself or in association with other or encourages or supports a large scale or systematic attack against any group of civilian population and with knowledge of the attack, and in the same context performs one of the following acts:

- (a) Kills one or more persons intentionally;
- (b) Intentionally inflicts harsh living conditions to bring about the destruction of part of a population;
- (c) Exercises powers attaching to the right of ownership or imposes similar deprivation of liberty including exercising such powers to practice human trafficking particularly children and women;
- (d) Forcibly deports or transfers a person or a group of protected population from the region they legally inhabit by any means or another to any other state or region in violation to the provisions of the International Humanitarian Law.
- (e) Imprisons or severely deprives a person of physical liberty in violation of fundamental rules of international law;
- (f) Deliberately inflicts physical or psychological pain on a person or more under the custody or control of the perpetrator, it does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions;
- (g) Uses coercion in intercourse with a female or sodomy with a male or raping the victim if this is linked with insertion in whatsoever manner. Coercion is considered to have taken place in the event that any of the previous actions is committed against any person who is unable to express his/her consent.
- (h) Exercises powers attaching to the right of ownership over one or more persons by forcing him to commit an act of sexual character or forces him disadvantage of liberty.

(i) detains a woman or more to forcibly made pregnant with the intent" of affecting the ethnic composition of any population or to commit gross violations of the International Humanitarian Law.

(j) Deprives one or more persons of biological reproductive capacity without medical justification or treatment received by the person concerned and carried out with his genuine consent.

(k) Commits an act of sexual nature against a person or more or forces such person or persons to practice an act of sexual nature by the use or threat of the use of force.

(l) Severely deprives one or more persons or a group of their fundamental rights by reason of their belonging to an identifiable group or collectivity on political, racial, national, ethnic, cultural, religious grounds or related to gender or for other reasons not recognized by the International Humanitarian Law whenever that denial is linked to any act stipulated the law thereto.

(m) arrests or abducts, or detains a person or more on behalf of a state or political organization or with the authorization, support or acquiescence thereto, knowing that, in the course of events, such act will be followed by refusal of acknowledgement by the state by deprivation of freedom or giving information on the fate or whereabouts or rejecting on behalf of a State or political organization - after or during that - to acknowledge that arrest or detention or abduction, and aware of it, whenever that to deprive such person or persons of the protection of the law for a prolonged period of time.

(n) Commits an inhumane act against one or more person similar to those acts provided for in this Article in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups with the intention of maintaining that regime.

(o) Intentionally commits one of the other inhumane acts similar in nature to those acts provided for in this Article which cause great suffering or serious injury to body or to mental or physical health to the victim.

Crimes of Genocide

187. He shall be punished by death or life imprisonment or any lesser punishment whoever commits or attempts to commit or incites to commit homicide against the members of a national or ethnic or religious group as such with the intent to partially or wholly exterminate or destroy them in the context of a large scale or systematic

conduct directed against that group and in the same context performs one of the following acts:

- (a) Kills one or more members of that group;
- (b) Tortures or harms or deforms or causes serious bodily or mental harm to members of such group;
- (c) Intentionally inflicts harsh living conditions to members of such group with the intent to partially or wholly exterminate them;
- (d) Any measures aimed to prevent a person or more within a group of individuals from reproduction may be imposed;
- (e) One child or more of a group of children may be transferred coercively to the children of another group.

War Crimes against Persons

188 – (1) whoever commits any of the following acts, within an international or non-international armed conflict context or associated therewith and with his knowledge, shall be punished with execution, life imprisonment or by any other lesser punishment:

- a) Intentionally kills one person or more from a protected group;
- b) Tortures one person or more from a protected group or treats him/her inhumanely, inflicts serious bodily and psychological pain to him/her with the intent to obtain information or confessions therefrom or for the purpose of punishment, intimidation or coercion or for any other reason based on any type of discrimination;
- c) Exposes one person or more to permanent injury, permanent disability, or amputation of any of his/her limbs or any part of his/her body, in such a way that leads to his/her death or exposes him/ her body or psychological health to a high risk.
- d) Violates personal dignity of one person or more from a protected group, especially through treating him / her in a derogatory and inhumane manner.
- e) Arrests one person or more persons from a protected group, detains or takes him/her as a hostage in any manner with threatening of killing or injuring him/her or continue his / her detention or those persons with the intent to force a state or any international organization, natural or legal person or a group of

persons to carry out any action or abstain therefrom as an express or implied condition for the safety of the person or releasing him/her.

- f) Uses coercion in intercourse with a female or sodomy with a male or raping the victim if this is linked with insertion in whatsoever manner. Coercion is considered to have taken place in the event that any of the previous actions is committed against any person who is unable to express his/her consent.
- g) Forces one person or more from a protected group to commit any action of a sexual nature by force or threatens with the use of force with the intent to obtain money or other benefits in return of those actions or for any other reason associated therewith.
- h) Denies one person or more persons from a protected group of his/her biological ability for reproduction without any justified medical reason or treatment that the concerned person receives with a real consent therefrom.
- i) Detains one woman or more from a protected group coercively for pregnancy with the intent to influencing the racial composition of a group of population.
- j) Recruits persons below the age of eighteen years in the armed forces or an armed group, includes therein, or uses thereof to actually participate in the war acts.
- k) Deports or transports one person or a group from a protected population or coercively transports them from the place of their legitimate stay in one manner or another to another country or place in violation to the international human law.
- l) Detains one person or more protected persons in an illegitimate manner.
- m) Issues a ruling and carries out an execution punishment on one person or more protected persons without prior trial by a competent court that observes all the judicial guarantees and procedures established by the international human law.
- n) Exposes one person or more protected persons to any type of biological experiments not justified according to medical treatment and without taking the interest of that person or persons and which may lead to the death or exposing their bodily or psychological health to a gross risk.

- o) Exposes the life of one person or more protected persons subjected to the authority of a hostile party to death or inflicts gross health injury to them by conducting any type of medical or laboratory experiments not justified according to medical treatment or dental treatment or treatment in the concerned hospital not conducted in his / her interest.
 - p) Kills or inflicts injury to any combatant who has laid his weapon or no longer has any means of defense after he has voluntarily surrendered or his / her presence outside the area of the fighting operations.
- (2) Whoever commits any of the following acts within an international armed conflict context with imprisonment for a period of not less than twenty years.
- a) Intentionally denies a prisoner of war or any one from a protected persons of trial in front of a competent court that observes all the judicial guarantees and procedures established by the law.
 - b) Compels any prisoner of war or any other person from the protected persons to work in the forces of a hostile country.
 - c) Compels any person or more from the national of a hostile country to participate in the military operations directed against the country of that person or its armed forces.

War Crimes against the Property and other Rights

189 - Whoever commits any of the following acts, within an international or non-international armed conflict context as well as against the property protected under the applicable provisions of the international human law and with his knowledge thereof and in that context, shall be punished with a period of imprisonment of not less than twenty years:

- a) Loots any property owned by the hostile party for personal use or possession,
- b) Causes large scale destruction to the property of the hostile party, seizure or confiscate them by illegal and arbitrary manner not required by military actions,
- c) Deprives the victims of the hostile party of their legal rights of resorting to courts through repeal, suspension, or inadmissibility of their claims before it.

War Crimes against Humanitarian Operations

190. Shall be punished by imprisonment for a period of not less than twenty years, whoever commits an act within the context of international or non-international

armed conflict or associated therewith and with his knowledge thereof, intentionally attack persons, installations, materials, units or means of transport used in humanitarian or peacekeeping missions in accordance with the provisions of the UN Charter and protected by the provisions of international humanitarian law applicable to armed conflicts.

War Crimes of Prohibited Fighting Methods

191. Shall be sentenced to death, life imprisonment or any lesser penalty whoever commits within the context of international or non-international armed conflict with his knowledge thereof, and perform within same context any of the following acts:

- a) Intentionally attacks civilian population or civilian personnel who directly involve in military actions,
- b) Intentionally attacks civilian sites or other protected objects which do not constitute military targets, especially the buildings dedicated for religious, educational, scientific or charitable purposes, historical monuments, artworks, hospitals and assembly areas dedicated for patients and causalities.
- c) Intentionally attacks or bombs cities, villages, dwellings or unprotected buildings that do not constitute military targets ,
- d) Intentionally wages an attack that would result in accidental loss of life or injury among civilians, damage to civilian objects, causing large scale , long-term and severe damage to the natural habitat which is excessive in relation to the total anticipated tangible direct military advantage,
- e) Transfers or exploits the presence of a civilian or more protected persons to protect certain points, areas or military units from military operations,
- f) Intentionally starves civilians as a method of war through depriving them of subsistence food indispensable for their survival or obstructing relief supplies through violation of international humanitarian law,
- g) Treacherously kills or injures a person or a combatant opponent or more belonging to a hostile state or army after making confidence or making them believe that they have the right of protection or it is duty to grant protection under the provisions of International Humanitarian Law applicable to armed conflicts,
- h) Orders displacement of civilian population without justification to provide security to the respective civilians or military necessity.

War Crimes of using prohibited means and weapons

192. Shall be sentenced to death or life imprisonment or by any lesser penalty whoever commits within the context of international or non-international armed conflict, associated there with and with his knowledge thereof, and perform any of the following acts:

- a) Uses poison or weapon, the use of which lead to spread or breathe of poisonous substance which will result in causing death or serious damage to health in normal circumstances due to its toxic properties,
- b) Uses gas, liquid, any substance or other means causing death or serious damage to health in normal circumstances due to its suffocating or toxic properties,
- c) Uses prohibited bullets that is easily stretches or flattened into human body which doubles the pain or wound caused by it in vain especially the bullets of a hard lid that does not fully surround the body of the bullet (s) and causing fear,
- d) Uses weapons, shells, materials, or military methods which causes by their nature excessive injury, unnecessary pains or random by nature through violation of the provisions of International Humanitarian Law applicable to armed conflicts.

Certification

This is to certify that the National Assembly in its session No. (16), on 25 May 2009 has approved the Criminal Act (amendment), 2009, and the Joint Standing Committee of the two councils has also decided at its meeting No. (19), on 11 June 2009 that this Act does not affect the interests of the states.

***{Signed}* Ahmed Ibrahim El Taher**
Speaker of the National Assembly
Joint Standing Committee of the Two Councils

I hereby agree
***{Signed}* Field marshal**
Omer Hassan Ahmed Al Bashir
President of the Republic
28 June 2009