



To Members of the Security Council

May 29, 2008

Your Excellency

On June 5, the Chief Prosecutor of the International Criminal Court (ICC), Luis Moreno-Ocampo, will again brief the United Nations Security Council on the status of the ICC's Darfur investigation and the status of the outstanding arrest warrants issued last year for Ahmad Harun and Ali Kushayb. The Justice for Darfur campaign is calling on the Security Council to use this occasion to call on Sudan to fulfill its obligations under Resolution 1593 (which referred the situation in Darfur to the ICC) and promptly arrest and surrender to The Hague these two suspects.

More than a year has passed since the ICC issued arrest warrants for Harun and Kushayb, who are charged with 51 counts of war crimes and crimes against humanity for their alleged roles in a series of attacks against civilians in West Darfur in 2003 and 2004. The charges include acts of murder, persecution, torture, rape and forcible displacement. Despite the seriousness of these crimes, Sudanese authorities have publicly refused to arrest and surrender the two suspects, flouting their legal obligation to both the ICC and the Security Council.

As outlined by the Prosecutor in his last briefing to the Security Council in December 2007, Sudan has persistently and outspokenly refused to cooperate with the court and surrender the two suspects. Ahmed Harun remains State Minister of Humanitarian Affairs and has been appointed to lead a committee charged with investigation into human rights violations in Darfur. Meanwhile it was announced last October that Janjaweed leader Ali Kushayb had been released from Sudanese government custody.

To date the Security Council has taken no formal action to press Sudan to comply with its obligations under Resolution 1593. We believe that Sudan will only take its Chapter VII obligations seriously if the Security Council ensures its resolutions are upheld. Failure of the Security Council to act will further embolden Sudan to continue to flout international law and the will of the Council. In the face of deteriorating security and fresh reports of atrocities being carried out by all sides, it is more critical than ever that the Council makes clear its commitment to ensuring those responsible for such crimes are held accountable. As Secretary-General Ban Ki-moon has stressed, there can be no sustainable peace without justice. Ensuring that those accused of bearing the most responsibility for crimes are brought to justice is vital for a lasting peace in Sudan.

We therefore urge the Security Council to respond to Sudan's non-cooperation by:

- **Raising Sudan's non-cooperation with the ICC during the Security Council's forthcoming visit to Khartoum**
- **Adopting a new Security Council resolution calling upon Sudan to comply with its international legal obligation to cooperate with the ICC's**

**investigation in Darfur and to surrender the two suspects to the ICC without delay, and providing for the Security Council to take other effective measures to ensure that any person subject to an arrest warrant issued by the Court is promptly located, arrested and surrendered to it.**

Despite strong statements of condemnation from each of the ten ICC states parties on the Security Council in response to the Prosecutor's most recent briefing in December 2007<sup>i</sup> - which noted Khartoum's failure to cooperate with the Court - the Council took no action to support the Prosecutor nor to press Sudan to comply with its obligation to surrender the accused.

This glaring omission should be rectified when the Security Council convenes on June 5 for the ICC Prosecutor's next briefing.

In addition, you should demonstrate your commitment to the ICC, as well as the Council's resolve to ensuring justice for the victims of these horrific crimes, by ensuring that accountability for crimes in violation of international law is raised during the forthcoming Council visit to Khartoum. During that visit, we urge you to call on the government of Sudan to fulfill its obligations under Resolution 1593 and arrest and surrender the two accused. We further ask that any public statements and reports following the mission include reference to the need for Khartoum to cooperate with the ICC.

Three years ago the Security Council made a commitment to ensuring justice for the victims of serious human rights violations that had been committed in Darfur and to putting an end to impunity for such crimes. As men, women and children in Darfur continue to be maimed and killed as a result of ongoing war crimes and crimes against humanity, the Council must not now back away from that commitment.

Yours sincerely

The "Justice for Darfur" campaign:

James Smith, Chief Executive, **Aegis Trust**

Nikki Serapio, Director, **Americans Against the Darfur Genocide**

Sarah Burton, Acting Senior Director, International Law, Policy & Campaigns, **Amnesty International**

Loamba Moke, President, **Association pour les Droits de l'Homme et l'Univers Carcéral (ADHUC)**

Nabeel Rajab, Vice President, **Bahrain center for Human Rights**

Moataz El fegiery, Executive Director, **Cairo Institute for Human Rights Studies (CIHRS)**

William R. Pace, Convenor, **Coalition for the International Criminal Court (CICC)**

Nick Grono, Deputy President, **International Crisis Group**

Dismas Nkunda, Co-Chair, **Darfur Consortium**

Fatima Haroun, President, **Darfur Rehabilitation Project, Inc.**

Khatir M kayabil, Secretary General, **Darfur Union in UK**

Robert Schütte, Head Executive, **Genocide Alert**

Jean Baptiste Bosongo, **Groupe lufalanga pour la justice et la paix**

Betsy Apple, Director, Crimes against Humanity Program, **Human Rights First**

Richard Dicker, Director, International Justice Program, **Human Rights Watch**

Caroline Wojtylak, **International Criminal Court Student Network (ICCSN)**

Ms. Souhayr Belhassen, President, **International Federation for Human Rights (FIDH).**

Clément Boursin, Chargé de Mission Afrique, **l'Action des chrétiens pour l'abolition de la torture (ACAT-France)**

Karam Saber , Executive Manager, **Land Center for Human Rights**

Alison Smith, Director, International Criminal Justice Program, **No Peace Without Justice**

Robert Varenik, Acting Executive Director, **Open Society Justice Initiative.**

David Donat Cattin (Ph.D., Law), Director, International Law and Human Rights Programme, **Parliamentarians for Global Action (PGA)**

A. Frank Donaghue, Chief Executive Officer, **Physicians for Human Rights**

Hassan Greeve, Chairman, **Prepared Society - Kenya**

Sarah Kaiser, Director, **Rene Cassin**

Amjad Atallah, Senior Director, International Policy and Advocacy, **Save Darfur Coalition**

Adetokunbo Mumuni, Executive Director, **Socio-Economic Rights & Accountability Project (SERAP)**

Isobel Renzulli, Project Coordinator, **Sudanese Organisation Against Torture (SOAT)**

Louise Roland-Gosselin, Executive Director, **Waging Peace**

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#### ENDNOTE

<sup>i</sup> Following the Prosecutor's briefing in December 2007 the following statements were made by members of the Security Council:

#### **Belgium**

Ambassador Verbeke noted the clear requirement for cooperation with the Court laid out in Resolution 1593 and stated that the Sudanese government's support for the individuals subject to warrants is a provocation amounting to "contempt towards the presumed victims of crimes against humanity and war crimes, and contempt towards the Security Council." Belgium called on the Security Council to reiterate the terms of resolution 1593 and the obligations that it contained.

#### **China**

Ambassador Zhenmin acknowledged the need to resolve the issue of impunity and the necessity of Sudan's increased cooperation with the ICC.

#### **Costa Rica**

Ambassador Weisleder has stressed the need for the Council to apply constant and timely pressure on the Government of Sudan to cooperate with the International Criminal Court in bringing major perpetrators to justice.

#### **France**

Ambassador Ripert noted the government of Sudan's failure to implement its obligations under 1593 and called on the Security Council to adopt a declaration reminding Sudan of its obligations. He stated that "the Council owed it to the thousands of victims and internally displaced persons still living in camps to express its support for the Court."

#### **Indonesia**

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Ambassador Natalegawa condemned the continued gross violations of international human rights and humanitarian law in Darfur and said the perpetrators must be brought to justice without unnecessary delay.

### **Italy**

Ambassador Spatafora reaffirmed that the fight against impunity for war crimes and crimes against humanity must be a priority of the international community and that these crimes represent a threat to international peace and stability. He further recalled that the Security Council's referral of the situation in Darfur to the Court contained a requirement that the government of Sudan and other parties' cooperate fully with the Court. He has since called on the government of Sudan to cooperate with the court.

### **Panama**

Ambassador Arias stated that the Government of Sudan had ignored the ICC's warrants which prevented the Court from fulfilling its duties. Underscoring that this failure to cooperate showed "disrespect for international obligations and disregard for the Council," he stated that the Security Council's toleration of such acts opens the door to further such acts.

### **Russia**

Ambassador Rogachev expressed his regret at the practical collapse of cooperation between the Court and the Sudanese government.

### **South Africa**

Ambassador Kumalo noted the Security Council's responsibility to demand the cooperation of States, particularly in cases where the Council itself had referred cases to the court. He reiterated that "in resolution 1593, the Council had called upon the Government of the Sudan and all other parties in Darfur to cooperate fully and provide the necessary assistance to the Court and the Prosecutor," and urged the government of Sudan to cooperate fully with the ICC.

### **United Kingdom**

Ambassador Sawers noted that instead of cooperating with the Court, the government of Sudan had "defied the Court and the Council" and adopted a course of protecting the indictees. He called on the Council to "give full and public backing to the Court."

### **Unites States**

The representative of the United States noted that he was particularly troubled "that the Government of the Sudan was still not cooperating with the Court and had not taken steps to arrest the two individuals." Confirming that "the United States had always supported bringing to justice those responsible for atrocities and war crimes in Darfur," he called on the government of Sudan to cooperate fully with the Court, as required by resolution 1593 and noted that impunity for ongoing attacks must end.