

The Darfur Consortium

*African and International
Civil Society Action for Darfur*

His Excellency President Olusegun Obasanjo
Presidential Villa
Aso Rock
Three Arms Zone
Abuja
Nigeria

March 17, 2005

Your Excellency,

The Darfur Consortium is an umbrella group of more than forty primarily Africa-based civil society organizations committed to working together towards finding a peaceful, just and lasting resolution to the current human rights and humanitarian crisis in Darfur, Sudan.

Members of the Darfur Consortium recently traveled to Darfur and eastern Chad to assess the situation firsthand and to meet with representatives of Darfurian and Sudanese civil society. In addition to these visits, the Darfur Consortium held an African civil society consultation in Kampala (Uganda) with non-governmental organizations and leading African jurists and international criminal law experts. These consultations were followed by a series of meetings with diplomatic missions and public briefings in African capitals.

Throughout these consultations the Darfur Consortium has identified two paramount concerns of the victims of the Darfur crisis and civil society groups: establishment of protection and security for civilians in Darfur and action to bring those responsible for atrocities in Darfur expeditiously to justice.

These two imperatives are viewed as equally critical for achieving sustainable peace in Darfur and establishing security in the region. In particular, it is our firm belief that successful conclusion of the political process in Darfur, and the creation of conditions conducive to the return of displaced persons to their original homes, will not be possible until it is clear that those responsible for grave crimes in Darfur will be brought to justice.

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*African NGO Refugee Protection
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*African Society of International and
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*African Women's Development and
Communications Network (FEMNET)*
Alliances for Africa
Anti-Slavery International
*Arab Program for Human Rights
Activists (APHRA)*
*Cairo Institute for Human Rights
Studies (CIHRS)*
*Centre for Research Education and
Development of Freedom of
Expression and Associated Rights*
*Darfur Relief and Documentation
Centre*
*Egyptian Organization for Human
Rights (EOHR)*
Femmes Africa Solidarité
*Human Rights Centre, University of
Pretoria*
*Human Rights Institute of South
Africa (HURISA)*
*Institute for Human Rights and
Development in Africa,*
*Inter-African Union for Human
Rights (UIDH)*
Interights
International Commission of Jurists
*International Refugee Rights
Initiative*
Justice Africa
Justice Initiative
Justice and Peace Commission
Lawyers for Human Rights
Legal Resources Consortium-Nigeria
*Ligue Tunisienne pour la Défense des
Droits de l'Homme*
*Makumira University College,
Tumaini University*
Minority Rights Group
Open Society Justice Initiative
Pan-African Movement
*Rencontre Africaine pour la Défense
des Droits de l'Homme (RADDHO)*
Sudan Organization Against Torture
*Sudanese Refugee Association in
South Africa*
WARIPNET
World Organization Against Torture

Your Excellency,

The Darfur Consortium is extremely cognizant of the pivotal role which the African Union (AU) and your country, Nigeria, have played, and continue to play, in the pursuit of peace in Darfur—brokering a ceasefire, hosting the political process, and sending a monitoring force to Darfur. We look to you now for leadership in building the framework of mechanisms necessary to ensure both justice for the victims of the Darfur conflict and long term reconciliation.

We believe that referral of the situation of Darfur to the International Criminal Court (ICC) by the UN Security Council is the foundation stone of this process. It is the first essential step which will create the environment for putting in place the broader set of measures which are necessary for the achievement of a lasting, just peace, not only in Darfur but in other parts of Sudan and the region more broadly.

The ICC is a unique institution founded upon global solidarity and embodying the responsibility felt by all humanity in the face of the commission of egregious crimes anywhere in the world. It is in this context that the Darfur Consortium views the ICC as at once an international *and* an African court. This understanding is not just a question of principle; it also reflects African policy and practice. As you are fully aware the ICC has been identified by numerous African countries as the most appropriate mechanism for pursuing accountability for serious crimes under international law in situations where domestic courts are unwilling or unable to act. The African Union has itself determined universal ratification of the Rome Statute as an objective of its strategic plan. Forty-four African countries—including Sudan—have signed the Statute and twenty-six are full parties. Four have already referred questions to the Court. From an operational perspective, not only does the ICC have the capacity to hold its proceedings in Africa, but many of the ICC's senior officials are African jurists.

Your Excellency,

The Darfur Consortium submits that a referral of the situation in Darfur to the ICC is entirely compatible with the vital additional efforts to achieve justice which must continue both in Sudan and within the AU in order to ensure peace, accountability and reconciliation.

As you know, the ICC itself operates upon the principle of complementarity. Once the Prosecutor initiates an investigation, the question may be raised as to whether the Sudan courts are, in a particular case, able and willing to assert jurisdiction. There are, however, grave concerns regarding the *present* capacity and willingness of Sudan to effectively prosecute those persons responsible for the most serious crimes in Darfur. The International Commission of Inquiry on Darfur which reported to the Security Council in January found that “the Sudanese justice system is unable and unwilling to address the situation in Darfur.” Attempts to mount trials for a small handful of alleged perpetrators have been entirely insufficient against the background of the scale and ferocity of the violence.

The Government of Sudan has itself recognized and accepted in the context of the Naivasha agreements that there is a need to establish new structures for rule of law and justice mechanisms within Sudan. Side by side, therefore, with a referral of the situation of Darfur to the ICC, the international community must commit to providing substantial and sustained support to the people of Darfur to rebuild the region's social and material infrastructure, and reform a justice system which has been eroded through decades of conflict. A scheme of reparations, which could begin to compensate the victims of the conflict for their immeasurable human and material loss, should be considered. At a later stage, a truth and reconciliation commission also needs to be part of a long-term strategy to promote a lasting peace. Recognition of the important role that local, traditional conflict resolution mechanisms can play in Darfur is equally vital.

Your Excellency,

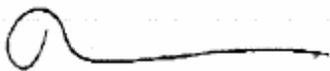
The Darfur Consortium believes that a referral to the ICC would not only send a strong message that Africa and the international community will stand side by side with the people of Sudan in ensuring that those who have committed the gravest of offences will be held accountable. Ultimately, it may even prevent further atrocity. Despite a series of AU Summit decisions and UN Security Council resolutions demanding that the parties to the conflict in Darfur take specific action to halt the violence, little has changed for those on the ground. Attacks by the government and militia forces have escalated and the people of Darfur continue to suffer as successive AU Peace and Security Council and UN Security Council resolutions are breached with impunity by all parties to the conflict. Recently, the UN announced that it had dramatically revised its estimate of the number of those who have died from hunger and disease alone in Darfur over the past 18 months to 180,000.

Your Excellency,

We are grateful for your consideration of our submissions and would be honoured to have an opportunity to discuss them in more detail with your office. A delegation from the Darfur Consortium would be available to meet with you or your office, whether in Abuja or elsewhere in the continent, at your convenience.

Please accept, Your Excellency, the assurance of our highest respect and consideration.

Yours faithfully,



Dismas Nkunda
For the Darfur Consortium